

AMENDED IN SENATE JUNE 4, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1847

Introduced by Assembly Member Chesbro

February 19, 2014

An act to amend Sections 52.5 and 1587 of the Civil Code, to amend Sections 328, 352, 372, 373, and 1447 of the Code of Civil Procedure, to amend Section 56850 of the Education Code, to amend Sections 2310, 2312, 2313, 2332, and 7901 of the Family Code, to amend Sections 854.2, 1001, 6276.30, 6276.34, 6276.38, 7579.1, 12428, 26640, 26643, and 26749 of, and to repeal Section 203 of, the Government Code, to amend Sections 1250, 1250.2, 1267.8, 1275.5, 1276.5, 1276.9, 1505.5, 1566.3, 1568.0831, 1569.5, 1569.85, 11812.6, 11834.23, 13113, 36130, 50680, 50684, 50685.5, 50688, and 50689 of the Health and Safety Code, to amend Section 10235.8 of the Insurance Code, to amend Section 4662 of the Labor Code, to amend Sections 2672 and 11151 of the Penal Code, to amend Sections 9201 and 19201 of the Probate Code, to amend Section 734 of the Public Utilities Code, to amend Sections 5301, 18014, 18395, and 35466 of the Streets and Highways Code, to amend Section 26306 of the Water Code, and to amend Sections 1752.6, 1756, 4011, 4016, 4021, 4022, 4042, 4080, 4109.5, 4119, 4120, 4121, 4132, ~~4135~~, 4136, 4200, 4202.5, 4240, 4241, 4243, 4244, 4304, 4308, 4320, 4410, 4417, 4440, 4681.1, 5002, 5004, 5004.5, 5115, 5116, 5250, 5301, 5304, 5326.5, 5340, 5350, 5400, 5500, 5511, 5585.10, 5600, 5653, 5696, 5699, 5714, 5802, 6000, 6002, 6002.10, 6250, 6254, 6551, 6825, 7100, 7200, 7201, 7226, 7227, 7275, 7276, 7277, 7278, 7280, 7283, 7284, 7294, 7300, 7329, 7352, 7354, 7357, 7362, 7500, and

7501.5 of, and to repeal Section 5366 of, the Welfare and Institutions Code, relating to mental health disorders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1847, as amended, Chesbro. Mental health disorders: language.

(1) Existing law refers to mentally disordered persons, or mentally defective persons in provisions relating to, among other things, education, social services, and civil law. Existing law also refers to the insane in provisions relating to, among other things, family law and social services.

This bill would revise these provisions to instead refer to persons with a mental health disorder or persons who lack legal capacity to make decisions, respectively. The bill would make related technical changes.

~~(2) Existing law requires that a person committed to a state hospital as a mentally abnormal sex offender remain a patient for the period specified in the court order of commitment or until discharged by the medical director of the state hospital in which the person is a patient, whichever occurs first. Existing law authorizes the medical director to grant the patient a leave of absence, as specified.~~

~~Existing law prohibits the inspection of the petition for commitment, reports, court orders, and court documents by anyone other than the parties to the proceeding and their attorneys and prohibits inspection of the records of supervision, care, and treatment by anyone not in the employ of the department or the state hospital.~~

~~(2) Under the California Public Records Act, except for exempt records, every state or local agency, upon request, is required to make records available to any person upon payment of fees to cover costs. Existing law specifies records that are exempt from the Public Records Act based on above provisions.~~

~~This bill would remove the provisions relating to the term of commitment and leave of absence for a mentally abnormal sex offender. The~~

~~The bill would make conforming changes to the Public Records Act based on the above provisions.~~

(3) The Irrigation District Law provides for the formation of irrigation districts with prescribed powers, including the power to levy an annual assessment upon the land in the district and to obtain a collector's deed against the property if the assessment is not paid. Existing law requires

an action proceeding, defense, answer, or cross-complaint based on the invalidity or irregularity of the collector’s deed to begin within one year after the recordation of the deed, unless otherwise specified, including when the owner of the land was, at the time of sale, a minor or insane person in which case the statute of limitations begins to run when the disability is removed.

This bill would make a technical change to clarify that the statute of limitations is tolled if the owner is a minor or lacks mental capacity.

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

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

1 SECTION 1. Section 52.5 of the Civil Code is amended to
2 read:

3 52.5. (a) A victim of human trafficking, as defined in Section
4 236.1 of the Penal Code, may bring a civil action for actual
5 damages, compensatory damages, punitive damages, injunctive
6 relief, any combination of those, or any other appropriate relief.
7 A prevailing plaintiff may also be awarded attorney’s fees and
8 costs.

9 (b) In addition to the remedies specified herein, in an action
10 under subdivision (a), the plaintiff may be awarded up to three
11 times his or her actual damages or ten thousand dollars (\$10,000),
12 whichever is greater. In addition, punitive damages may also be
13 awarded upon proof of the defendant’s malice, oppression, fraud,
14 or duress in committing the act of human trafficking.

15 (c) An action brought pursuant to this section shall be
16 commenced within five years of the date on which the trafficking
17 victim was freed from the trafficking situation or, if the victim was
18 a minor when the act of human trafficking against the victim
19 occurred, within eight years after the date the plaintiff attains the
20 age of majority.

21 (d) If a person entitled to sue is under a disability at the time
22 the cause of action accrues, so that it is impossible or impracticable
23 for him or her to bring an action, then the time of the disability is
24 not part of the time limited for the commencement of the action.
25 Disability will toll the running of the statute of limitation for this
26 action.

1 (1) Disability includes being a minor, lacking legal capacity to
2 make decisions, imprisonment, or other incapacity or
3 incompetence.

4 (2) The statute of limitations shall not run against a plaintiff
5 who is a minor or who lacks the legal competence to make
6 decisions simply because a guardian ad litem has been appointed.
7 A guardian ad litem’s failure to bring a plaintiff’s action within
8 the applicable limitation period will not prejudice the plaintiff’s
9 right to do so after his or her disability ceases.

10 (3) A defendant is estopped to assert a defense of the statute of
11 limitations when the expiration of the statute is due to conduct by
12 the defendant inducing the plaintiff to delay the filing of the action,
13 or due to threats made by the defendant causing duress upon the
14 plaintiff.

15 (4) The suspension of the statute of limitations due to disability,
16 lack of knowledge, or estoppel applies to all other related claims
17 arising out of the trafficking situation.

18 (5) The running of the statute of limitations is postponed during
19 the pendency of criminal proceedings against the victim.

20 (e) The running of the statute of limitations may be suspended
21 where a person entitled to sue could not have reasonably discovered
22 the cause of action due to circumstances resulting from the
23 trafficking situation, such as psychological trauma, cultural and
24 linguistic isolation, and the inability to access services.

25 (f) A prevailing plaintiff may also be awarded reasonable
26 attorney’s fees and litigation costs including, but not limited to,
27 expert witness fees and expenses as part of the costs.

28 (g) Restitution paid by the defendant to the victim shall be
29 credited against a judgment, award, or settlement obtained pursuant
30 to this section. A judgment, award, or settlement obtained pursuant
31 to an action under this section shall be subject to the provisions of
32 Section 13963 of the Government Code.

33 (h) A civil action filed under this section shall be stayed during
34 the pendency of any criminal action arising out of the same
35 occurrence in which the claimant is the victim. As used in this
36 section, a “criminal action” includes investigation and prosecution,
37 and is pending until a final adjudication in the trial court or
38 dismissal.

39 SEC. 2. Section 1587 of the Civil Code is amended to read:

40 1587. A proposal is revoked by any of the following:

1 (a) By the communication of notice of revocation by the
2 proposer to the other party, in the manner prescribed by Sections
3 1581 and 1583, before his or her acceptance has been
4 communicated to the former.

5 (b) By the lapse of the time prescribed in the proposal for its
6 acceptance or, if no time is prescribed, the lapse of a reasonable
7 time without communication of the acceptance.

8 (c) By the failure of the acceptor to fulfill a condition precedent
9 to acceptance.

10 (d) By the death or legal incapacity to make decisions of the
11 proposer.

12 SEC. 3. Section 328 of the Code of Civil Procedure is amended
13 to read:

14 328. If a person entitled to commence an action for the recovery
15 of real property, or for the recovery of the possession thereof, or
16 to make an entry or defense founded on the title to real property,
17 or to rents or services out of the property, is, at the time title first
18 descends or accrues, either under the age of majority or lacking
19 legal capacity to make decisions, the time, not exceeding 20 years,
20 during which the disability continues is not deemed a portion of
21 the time in this chapter limited for the commencement of the action,
22 or the making of the entry or defense, but the action may be
23 commenced, or entry or defense made, within the period of five
24 years after the disability shall cease, or after the death of the person
25 entitled, who shall die under the disability. The action shall not be
26 commenced, or entry or defense made, after that period.

27 SEC. 4. Section 352 of the Code of Civil Procedure is amended
28 to read:

29 352. (a) If a person entitled to bring an action, mentioned in
30 Chapter 3 (commencing with Section 335) is, at the time the cause
31 of action accrued either under the age of majority or lacking the
32 legal capacity to make decisions, the time of the disability is not
33 part of the time limited for the commencement of the action.

34 (b) This section shall not apply to an action against a public
35 entity or public employee upon a cause of action for which a claim
36 is required to be presented in accordance with Chapter 1
37 (commencing with Section 900) or Chapter 2 (commencing with
38 Section 910) of Part 3, or Chapter 3 (commencing with Section
39 950) of Part 4, of Division 3.6 of Title 1 of the Government Code.

1 This subdivision shall not apply to any claim presented to a public
2 entity prior to January 1, 1971.

3 SEC. 5. Section 372 of the Code of Civil Procedure is amended
4 to read:

5 372. (a) (1) When a minor, a person who lacks legal capacity
6 to make decisions, or a person for whom a conservator has been
7 appointed is a party, that person shall appear either by a guardian
8 or conservator of the estate or by a guardian ad litem appointed
9 by the court in which the action or proceeding is pending, or by a
10 judge thereof, in each case. A guardian ad litem may be appointed
11 in any case when it is deemed by the court in which the action or
12 proceeding is prosecuted, or by a judge thereof, expedient to
13 appoint a guardian ad litem to represent the minor, person lacking
14 legal capacity to make decisions, or person for whom a conservator
15 has been appointed, notwithstanding that the person may have a
16 guardian or conservator of the estate and may have appeared by
17 the guardian or conservator of the estate. The guardian or
18 conservator of the estate or guardian ad litem so appearing for any
19 minor, person who lacks legal capacity to make decisions, or person
20 for whom a conservator has been appointed shall have power, with
21 the approval of the court in which the action or proceeding is
22 pending, to compromise the same, to agree to the order or judgment
23 to be entered therein for or against the ward or conservatee, and
24 to satisfy any judgment or order in favor of the ward or conservatee
25 or release or discharge any claim of the ward or conservatee
26 pursuant to that compromise. Money or other property to be paid
27 or delivered pursuant to the order or judgment for the benefit of a
28 minor, person lacking legal capacity to make decisions, or person
29 for whom a conservator has been appointed shall be paid and
30 delivered as provided in Chapter 4 (commencing with Section
31 3600) of Part 8 of Division 4 of the Probate Code.

32 (2) Where reference is made in this section to “a person lacking
33 legal competence to make decisions,” the reference shall be deemed
34 to include “a person for whom a conservator may be appointed.”

35 (3) Nothing in this section, or in any other provision of this
36 code, the Civil Code, the Family Code, or the Probate Code is
37 intended by the Legislature to prohibit a minor from exercising an
38 intelligent and knowing waiver of his or her constitutional rights
39 in a proceeding under the Juvenile Court Law, Chapter 2

1 (commencing with Section 200) of Part 1 of Division 2 of the
2 Welfare and Institutions Code.

3 (b) (1) Notwithstanding subdivision (a), a minor 12 years of
4 age or older may appear in court without a guardian, counsel, or
5 guardian ad litem, for the purpose of requesting or opposing a
6 request for any of the following:

7 (A) An injunction or temporary restraining order or both to
8 prohibit harassment pursuant to Section 527.6.

9 (B) An injunction or temporary restraining order or both against
10 violence or a credible threat of violence in the workplace pursuant
11 to Section 527.8.

12 (C) A protective order pursuant to Division 10 (commencing
13 with Section 6200) of the Family Code.

14 (D) A protective order pursuant to Sections 7710 and 7720 of
15 the Family Code.

16 The court may, either upon motion or in its own discretion, and
17 after considering reasonable objections by the minor to the
18 appointment of specific individuals, appoint a guardian ad litem
19 to assist the minor in obtaining or opposing the order, provided
20 that the appointment of the guardian ad litem does not delay the
21 issuance or denial of the order being sought. In making the
22 determination concerning the appointment of a particular guardian
23 ad litem, the court shall consider whether the minor and the
24 guardian have divergent interests.

25 (2) For purposes of this subdivision only, upon the issuance of
26 an order pursuant to paragraph (1), if the minor initially appeared
27 in court seeking an order without a guardian or guardian ad litem,
28 and if the minor is residing with a parent or guardian, the court
29 shall send a copy of the order to at least one parent or guardian
30 designated by the minor, unless, in the discretion of the court,
31 notification of a parent or guardian would be contrary to the best
32 interest of the minor. The court is not required to send the order
33 to more than one parent or guardian.

34 (3) The Judicial Council shall adopt forms by July 1, 1999, to
35 facilitate the appointment of a guardian ad litem pursuant to this
36 subdivision.

37 (c) (1) Notwithstanding subdivision (a), a minor may appear in
38 court without a guardian ad litem in the following proceedings if
39 the minor is a parent of the child who is the subject of the
40 proceedings:

1 (A) Family court proceedings pursuant to Part 3 (commencing
2 with Section 7600) of Division 12 of the Family Code.

3 (B) Dependency proceedings pursuant to Chapter 2
4 (commencing with Section 200) of Part 1 of Division 2 of the
5 Welfare and Institutions Code.

6 (C) Guardianship proceedings for a minor child pursuant to Part
7 2 (commencing with Section 1500) of Division 4 of the Probate
8 Code.

9 (D) Any other proceedings concerning child custody, visitation,
10 or support.

11 (2) If the court finds that the minor parent is unable to
12 understand the nature of the proceedings or to assist counsel in
13 preparing the case, the court shall, upon its own motion or upon a
14 motion by the minor parent or the minor parent’s counsel, appoint
15 a guardian ad litem.

16 SEC. 6. Section 373 of the Code of Civil Procedure is amended
17 to read:

18 373. When a guardian ad litem is appointed, he or she shall be
19 appointed as follows:

20 (a) If the minor is the plaintiff the appointment must be made
21 before the summons is issued, upon the application of the minor,
22 if the minor is 14 years of age or older, or, if under that age, upon
23 the application of a relative or friend of the minor.

24 (b) If the minor is the defendant, upon the application of the
25 minor, if the minor is 14 years of age or older, and the minor
26 applies within 10 days after the service of the summons, or, if
27 under that age or if the minor neglects to apply, then upon the
28 application of a relative or friend of the minor, or of any other
29 party to the action, or by the court on its own motion.

30 (c) If the person lacking legal competence to make decisions is
31 a party to an action or proceeding, upon the application of a relative
32 or friend of the person lacking legal competence to make decisions,
33 or of any other party to the action or proceeding, or by the court
34 on its own motion.

35 SEC. 7. Section 1447 of the Code of Civil Procedure is
36 amended to read:

37 1447. Notwithstanding any other law, all unclaimed money or
38 other property belonging to a person who dies while confined in
39 a state institution subject to the jurisdiction of the State Department
40 of State Hospitals, which is paid or delivered to the state or an

1 officer or employee thereof under the provisions of Section 166
2 of the Welfare and Institutions Code, or under any amendment
3 thereof adopted after the effective date of Chapter 1708 of the
4 Statutes of 1951 shall be deemed to be paid or delivered for deposit
5 in the State Treasury under the provisions of this article, and shall
6 be transmitted, received, accounted for, and disposed of, as
7 provided in this part.

8 SEC. 8. Section 56850 of the Education Code is amended to
9 read:

10 56850. (a) The purpose of the Legislature, in enacting this
11 chapter, is to recognize that individuals with exceptional needs of
12 mandated schoolage, residing in California's state hospitals and
13 developmental centers, are entitled to, under the Individuals with
14 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and the
15 Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), the same
16 access to educational programs as is provided for individuals with
17 exceptional needs residing in our communities.

18 (b) It is the intent of the Legislature to ensure that services shall
19 be provided in the community near the individual state hospitals
20 to the maximum extent appropriate, and in the least restrictive
21 environment.

22 (c) It is the further intent of the Legislature to ensure equal
23 access to the educational process and to a full continuum of
24 educational services for all individuals, regardless of their physical
25 residence.

26 (d) It is the further intent of the Legislature that educational
27 services designated for state hospital residents not eligible for
28 services mandated by the Individuals with Disabilities Education
29 Act (20 U.S.C. Sec. 1400 et seq.) shall not be reduced or limited
30 in any manner as a result of the enactment of this chapter.

31 (e) It is the further intent of the Legislature that any cooperative
32 agreements to provide educational services for state hospitals shall
33 seek to maximize federal financial participation in funding these
34 services.

35 SEC. 9. Section 2310 of the Family Code is amended to read:

36 2310. Dissolution of the marriage or legal separation of the
37 parties may be based on either of the following grounds, which
38 shall be pleaded generally:

39 (a) Irreconcilable differences, which have caused the
40 irremediable breakdown of the marriage.

1 (b) Permanent legal incapacity to make decisions.

2 SEC. 10. Section 2312 of the Family Code is amended to read:

3 2312. A marriage may be dissolved on the grounds of
4 permanent legal incapacity to make decisions only upon proof,
5 including competent medical or psychiatric testimony, that the
6 spouse was at the time the petition was filed, and remains,
7 permanently lacking the legal capacity to make decisions.

8 SEC. 11. Section 2313 of the Family Code is amended to read:

9 2313. No dissolution of marriage granted on the ground of
10 permanent legal incapacity to make decisions relieves a spouse
11 from any obligation imposed by law as a result of the marriage for
12 the support of the spouse who lacks legal capacity to make
13 decisions, and the court may make an order for support, or require
14 a bond therefor, as the circumstances require.

15 SEC. 12. Section 2332 of the Family Code is amended to read:

16 2332. (a) If the petition for dissolution of the marriage is based
17 on the ground of permanent legal incapacity to make decisions
18 and the spouse who lacks legal capacity to make decisions has a
19 guardian or conservator, other than the spouse filing the petition,
20 the petition and summons shall be served upon the spouse and the
21 guardian or conservator. The guardian or conservator shall defend
22 and protect the interests of the spouse who lacks legal capacity to
23 make decisions.

24 (b) If the spouse who lacks legal capacity to make decisions has
25 no guardian or conservator, or if the spouse filing the petition is
26 the guardian or conservator, the court shall appoint a guardian ad
27 litem, who may be the district attorney or the county counsel, if
28 any, to defend and protect the interests of the spouse who lacks
29 legal capacity to make decisions. If a district attorney or county
30 counsel is appointed guardian ad litem pursuant to this subdivision,
31 the successor in the office of district attorney or county counsel,
32 as the case may be, succeeds as guardian ad litem, without further
33 action by the court or parties.

34 (c) “Guardian or conservator” as used in this section means:

35 (1) With respect to the issue of the dissolution of the marriage
36 relationship, the guardian or conservator of the person.

37 (2) With respect to support and property division issues, the
38 guardian or conservator of the estate.

39 SEC. 13. Section 7901 of the Family Code is amended to read:

1 7901. The provisions of the interstate compact referred to in
2 Section 7900 are as follows:

3
4
5 INTERSTATE COMPACT ON THE PLACEMENT OF
6 CHILDREN

7
8 Article 1. Purpose and Policy
9

10 It is the purpose and policy of the party states to cooperate with
11 each other in the interstate placement of children to the end that:

12 (a) Each child requiring placement shall receive the maximum
13 opportunity to be placed in a suitable environment and with persons
14 or institutions having appropriate qualifications and facilities to
15 provide a necessary and desirable degree and type of care.

16 (b) The appropriate authorities in a state where a child is to be
17 placed may have full opportunity to ascertain the circumstances
18 of the proposed placement, thereby promoting full compliance
19 with applicable requirements for the protection of the child.

20 (c) The proper authorities of the state from which the placement
21 is made may obtain the most complete information on the basis
22 on which to evaluate a projected placement before it is made.

23 (d) Appropriate jurisdictional arrangements for the care of
24 children will be promoted.
25

26 Article 2. Definitions
27

28 As used in this compact:

29 (a) "Child" means a person who, by reason of minority, is legally
30 subject to parental, guardianship, or similar control.

31 (b) "Sending agency" means a party state, or officer or employee
32 thereof; subdivision of a party state, or officer or employee thereof;
33 a court of a party state; a person, corporation, association, charitable
34 agency, or other entity which sends, brings, or causes to be sent
35 or brought any child to another party state.

36 (c) "Receiving state" means the state to which a child is sent,
37 brought, or caused to be sent or brought, whether by public
38 authorities or private persons or agencies, and whether for
39 placement with state or local public authorities or for placement
40 with private agencies or persons.

1 (d) “Placement” means the arrangement for the care of a child
 2 in a family free or boarding home or in a child-caring agency or
 3 institution but does not include any institution caring for persons
 4 with developmental disabilities or mental health disorders or any
 5 institution primarily educational in character, and any hospital or
 6 other medical facility.

7
 8
 9

Article 3. Conditions for Placement

10 (a) No sending agency shall send, bring, or cause to be sent or
 11 brought into any other party state any child for placement in foster
 12 care or as a preliminary to a possible adoption unless the sending
 13 agency shall comply with each and every requirement set forth in
 14 this article and with the applicable laws of the receiving state
 15 governing the placement of children therein.

16 (b) Before sending, bringing, or causing any child to be sent or
 17 brought into a receiving state for placement in foster care or as a
 18 preliminary to a possible adoption, the sending agency shall furnish
 19 the appropriate public authorities in the receiving state written
 20 notice of the intention to send, bring, or place the child in the
 21 receiving state. The notice shall contain:

- 22 (1) The name, date, and place of birth of the child.
- 23 (2) The identity and address or addresses of the parents or legal
 24 guardian.
- 25 (3) The name and address of the person, agency, or institution
 26 to or with which the sending agency proposes to send, bring, or
 27 place the child.
- 28 (4) A full statement of the reasons for the proposed action and
 29 evidence of the authority pursuant to which the placement is
 30 proposed to be made.

31 (c) Any public officer or agency in a receiving state which is
 32 in receipt of a notice pursuant to paragraph (b) of this article may
 33 request of the sending agency, or any other appropriate officer or
 34 agency of or in the sending agency’s state, and shall be entitled to
 35 receive therefrom, supporting or additional information as it may
 36 deem necessary under the circumstances to carry out the purpose
 37 and policy of this compact.

38 (d) The child shall not be sent, brought, or caused to be sent or
 39 brought into the receiving state until the appropriate public
 40 authorities in the receiving state shall notify the sending agency,

1 in writing, to the effect that the proposed placement does not appear
2 to be contrary to the interests of the child.

3
4 Article 4. Penalty for Illegal Placement
5

6 The sending, bringing, or causing to be sent or brought into any
7 receiving state of a child in violation of the terms of this compact
8 shall constitute a violation of the laws respecting the placement
9 of children of both the state in which the sending agency is located
10 or from which it sends or brings the child and of the receiving
11 state. A violation may be punished or subjected to penalty in either
12 jurisdiction in accordance with its laws. In addition to liability for
13 any punishment or penalty, any violation shall constitute full and
14 sufficient grounds for the suspension or revocation of any license,
15 permit, or other legal authorization held by the sending agency
16 which empowers or allows it to place, or care for children.

17
18 Article 5. Continuing Jurisdiction
19

20 (a) The sending agency shall retain jurisdiction over the child
21 sufficient to determine all matters in relation to the custody,
22 supervision, care, treatment, and disposition of the child which it
23 would have had if the child had remained in the sending agency's
24 state, until the child is adopted, reaches majority, becomes
25 self-supporting, or is discharged with the concurrence of the
26 appropriate authority in the receiving state. That jurisdiction shall
27 also include the power to effect or cause the return of the child or
28 its transfer to another location and custody pursuant to law. The
29 sending agency shall continue to have financial responsibility for
30 support and maintenance of the child during the period of the
31 placement. Nothing contained herein shall defeat a claim of
32 jurisdiction by a receiving state sufficient to deal with an act of
33 delinquency or crime committed therein.

34 (b) When the sending agency is a public agency, it may enter
35 into an agreement with an authorized public or private agency in
36 the receiving state providing for the performance of one or more
37 services in respect of that case by the latter as agent for the sending
38 agency.

1 (c) Nothing in this compact shall be construed to prevent a
 2 private charitable agency authorized to place children in the
 3 receiving state from performing services or acting as agent in that
 4 state for a private charitable agency of the sending state; nor to
 5 prevent the agency in the receiving state from discharging financial
 6 responsibility for the support and maintenance of a child who has
 7 been placed on behalf of the sending agency without relieving the
 8 responsibility set forth in paragraph (a) of this article.

9
 10 Article 6. Institutional Care of Delinquent Children

11
 12 A child adjudicated delinquent may be placed in an institution
 13 in another party jurisdiction pursuant to this compact but no such
 14 placement shall be made unless the child is given a court hearing
 15 on notice to the parent or guardian with opportunity to be heard,
 16 before being sent to the other party jurisdiction for institutional
 17 care and the court finds that both of the following exist:

- 18 (a) Equivalent facilities for the child are not available in the
 19 sending agency’s jurisdiction.
- 20 (b) Institutional care in the other jurisdiction is in the best
 21 interest of the child and will not produce undue hardship.

22
 23 Article 7. Compact Administrator

24
 25 The executive head of each jurisdiction party to this compact
 26 shall designate an officer who shall be general coordinator of
 27 activities under this compact in his or her jurisdiction and who,
 28 acting jointly with like officers of other party jurisdictions, shall
 29 have power to promulgate rules and regulations to carry out more
 30 effectively the terms and provisions of this compact.

31
 32 Article 8. Limitations

33
 34 This compact shall not apply to:

- 35 (a) The sending or bringing of a child into a receiving state by
 36 his or her parent, stepparent, grandparent, adult brother or sister,
 37 adult uncle or aunt, or his or her guardian and leaving the child
 38 with any such relative or nonagency guardian in the receiving state.
- 39 (b) Any placement, sending or bringing of a child into a
 40 receiving state pursuant to any other interstate compact to which

1 both the state from which the child is sent or brought and the
2 receiving state are party, or to any other agreement between said
3 states which has the force of law.

4
5 Article 9. Enactment and Withdrawal
6

7 This compact shall be open to joinder by any state, territory, or
8 possession of the United States, the District of Columbia, the
9 Commonwealth of Puerto Rico, and, with the consent of Congress,
10 the government of Canada or any province thereof. It shall become
11 effective with respect to any of these jurisdictions when that
12 jurisdiction has enacted the same into law. Withdrawal from this
13 compact shall be by the enactment of a statute repealing the same,
14 but shall not take effect until two years after the effective date of
15 the statute and until written notice of the withdrawal has been
16 given by the withdrawing state to the Governor of each other party
17 jurisdiction. Withdrawal of a party state shall not affect the rights,
18 duties, and obligations under this compact of any sending agency
19 therein with respect to a placement made before the effective date
20 of withdrawal.

21
22 Article 10. Construction and Severability
23

24 The provisions of this compact shall be liberally construed to
25 effectuate the purposes thereof. The provisions of this compact
26 shall be severable and if any phrase, clause, sentence, or provision
27 of this compact is declared to be contrary to the constitution of
28 any party state or of the United States or the applicability thereof
29 to any government, agency, person, or circumstance is held invalid,
30 the validity of the remainder of this compact and the applicability
31 thereof to any government, agency, person, or circumstance shall
32 not be affected thereby. If this compact shall be held contrary to
33 the constitution of any state party thereto, the compact shall remain
34 in full force and effect as to the remaining states and in full force
35 and effect as to the state affected as to all severable matters.

36 SEC. 14. Section 203 of the Government Code is repealed.

37 SEC. 15. Section 854.2 of the Government Code is amended
38 to read:

39 854.2. As used in this chapter, "mental institution" means a
40 state hospital for the care and treatment of persons with mental

1 health disorders or intellectual disabilities, the California
2 Rehabilitation Center referred to in Section 3300 of the Welfare
3 and Institutions Code, or a county psychiatric hospital.

4 SEC. 16. Section 1001 of the Government Code is amended
5 to read:

6 1001. The civil executive officers are: a Governor; a private
7 secretary and an executive secretary for the Governor; a Lieutenant
8 Governor; a Secretary of State; a Deputy Secretary of State; a
9 Keeper of Archives of State for Secretary of State; a bookkeeper
10 for the Secretary of State; three recording clerks for the Secretary
11 of State; a Controller; a Deputy Controller; a bookkeeper for the
12 Controller; five clerks for the Controller; a Treasurer; a Deputy
13 Treasurer; a bookkeeper for the Treasurer; a clerk for six months
14 in each year for the Treasurer; an Attorney General and all assistant
15 and deputy attorneys general; a Superintendent of Public
16 Instruction; one clerk for the Superintendent of Public Instruction;
17 an Insurance Commissioner; a deputy for the Insurance
18 Commissioner; four port wardens for the Port of San Francisco; a
19 port warden for each port of entry except San Francisco; five State
20 Harbor Commissioners for San Francisco Harbor; six pilots for
21 each harbor where there is no board of pilot commissioners; three
22 members of the Board of Pilot Commissioners for Humboldt Bay
23 and Bar; 13 members of the State Board of Agriculture; four
24 members of the State Board of Equalization; a clerk of the Board
25 of Equalization; three members of the State Board of Education;
26 a librarian for the Supreme Court Library and the chief deputy
27 clerk and the deputy clerks of the Supreme Court; five directors
28 for the state hospital at Napa; the manager, assistant manager, chief
29 counsel and division chiefs, State Compensation Insurance Fund;
30 the head of each department and all chiefs of divisions, deputies
31 and secretaries of a department; such other officers as fill offices
32 created by or under the authority of charters or laws for the
33 government of counties and cities or of the health, school, election,
34 road, or revenue laws.

35 SEC. 17. Section 6276.30 of the Government Code is amended
36 to read:

37 6276.30. Managed care health plans, confidentiality of
38 proprietary information, Section 14091.3, Welfare and Institutions
39 Code.

1 Managed Risk Medical Insurance Board, negotiations with
2 entities contracting or seeking to contract with the board,
3 subdivisions (v) and (y) of Section 6254.

4 Mandated blood testing and confidentiality to protect public
5 health, prohibition against compelling identification of test subjects,
6 Section 120975, Health and Safety Code.

7 Mandated blood testing and confidentiality to protect public
8 health, unauthorized disclosures of identification of test subjects,
9 Sections 1603.1, 1603.3, and 121022, Health and Safety Code.

10 Mandated blood testing and confidentiality to protect public
11 health, disclosure to patient's spouse, sexual partner, needle sharer,
12 or county health officer, Section 121015, Health and Safety Code.

13 Manufactured home, mobilehome, floating home, confidentiality
14 of home address of registered owner, Section 18081, Health and
15 Safety Code.

16 Marital confidential communications, Sections 980, 981, 982,
17 983, 984, 985, 986, and 987, Evidence Code.

18 Market reports, confidential, subdivision (e), Section 6254.

19 Marketing of commodities, confidentiality of financial
20 information, Section 58781, Food and Agricultural Code.

21 Marketing orders, confidentiality of processors' or distributors'
22 information, Section 59202, Food and Agricultural Code.

23 Marriage, confidential, certificate, Section 511, Family Code.

24 Medi-Cal Benefits Program, confidentiality of information,
25 Section 14100.2, Welfare and Institutions Code.

26 Medi-Cal Benefits Program, Request of Department for Records
27 of Information, Section 14124.89, Welfare and Institutions Code.

28 Medi-Cal Fraud Bureau, confidentiality of complaints, Section
29 12528.

30 Medi-Cal managed care program, exemption from disclosure
31 for financial and utilization data submitted by Medi-Cal managed
32 care health plans to establish rates, Section 14301.1, Welfare and
33 Institutions Code.

34 Medi-Cal program, exemption from disclosure for best price
35 contracts between the State Department of Health Care Services
36 and drug manufacturers, Section 14105.33, Welfare and Institutions
37 Code.

38 Medical information, disclosure by provider unless prohibited
39 by patient in writing, Section 56.16, Civil Code.

1 Medical information, types of information not subject to patient
2 prohibition of disclosure, Section 56.30, Civil Code.
3 Medical and other hospital committees and peer review bodies,
4 confidentiality of records, Section 1157, Evidence Code.
5 Medical or dental licensee, action for revocation or suspension
6 due to illness, report, confidentiality of, Section 828, Business and
7 Professions Code.
8 Medical or dental licensee, disciplinary action, denial or
9 termination of staff privileges, report, confidentiality of, Sections
10 805, 805.1, and 805.5, Business and Professions Code.
11 Meetings of state agencies, disclosure of agenda, Section
12 11125.1.
13 Milk marketing, confidentiality of records, Section 61443, Food
14 and Agricultural Code.
15 Milk product certification, confidentiality of, Section 62121,
16 Food and Agricultural Code.
17 Milk, market milk, confidential records and reports, Section
18 62243, Food and Agricultural Code.
19 Milk product registration, confidentiality of information, Section
20 38946, Food and Agricultural Code.
21 Milk equalization pool plan, confidentiality of producers' voting,
22 Section 62716, Food and Agricultural Code.
23 Mining report, confidentiality of report containing information
24 relating to mineral production, reserves, or rate of depletion of
25 mining operation, Section 2207, Public Resources Code.
26 Minor, criminal proceeding testimony closed to public, Section
27 859.1, Penal Code.
28 Minors, material depicting sexual conduct, records of suppliers
29 to be kept and made available to law enforcement, Section 1309.5,
30 Labor Code.
31 Misdemeanor and felony reports by police chiefs and sheriffs
32 to Department of Justice, confidentiality of, Sections 11107 and
33 11107.5, Penal Code.
34 Monetary instrument transaction records, confidentiality of,
35 Section 14167, Penal Code.
36 Missing persons' information, disclosure of, Sections 14201 and
37 14203, Penal Code.
38 Morbidity and mortality studies, confidentiality of records,
39 Section 100330, Health and Safety Code.

1 Motor vehicle accident reports, disclosure, Sections 16005,
2 20012, and 20014, Vehicle Code.
3 Motor vehicles, department of, public records, exceptions,
4 Sections 1808 to 1808.7, inclusive, Vehicle Code.
5 Motor vehicle insurance fraud reporting, confidentiality of
6 information acquired, Section 1874.3, Insurance Code.
7 Motor vehicle liability insurer, data reported to Department of
8 Insurance, confidentiality of, Section 11628, Insurance Code.
9 Multijurisdictional drug law enforcement agency, closed sessions
10 to discuss criminal investigation, Section 54957.8.
11 SEC. 18. Section 6276.34 of the Government Code is amended
12 to read:
13 6276.34. Parole revocation proceedings, confidentiality of
14 information in reports, Section 3063.5, Penal Code.
15 Passenger fishing boat licenses, records, Section 7923, Fish and
16 Game Code.
17 Paternity, acknowledgement, confidentiality of records, Section
18 102760, Health and Safety Code.
19 Patient-physician confidential communication, Sections 992 and
20 994, Evidence Code.
21 Patient records, confidentiality of, Section 123135, Health and
22 Safety Code.
23 Payment instrument licensee records, inspection of, Section
24 33206, Financial Code.
25 Payroll records, confidentiality of, Section 1776, Labor Code.
26 Peace officer personnel records, confidentiality of, Sections
27 832.7 and 832.8, Penal Code.
28 Penitential communication between penitent and clergy, Sections
29 1032 and 1033, Evidence Code.
30 Personal Care Services Program, exemption from disclosure for
31 information regarding persons paid by the state to provide personal
32 care services, Section 6253.2.
33 Personal Income Tax, disclosure of information, Article 2
34 (commencing with Section 19542), Chapter 7, Part 10.2, Division
35 2, Revenue and Taxation Code.
36 Personal information, Information Practices Act, prohibitions
37 against disclosure by state agencies, Sections 1798.24 and 1798.75,
38 Civil Code.
39 Personal information, subpoena of records containing, Section
40 1985.4, Code of Civil Procedure.

1 Personal representative, confidentiality of personal
2 representative's birth date and driver's license number, Section
3 8404, Probate Code.

4 Personnel Administration, Department of, confidentiality of pay
5 data furnished to, Section 19826.5.

6 *Persons formerly classified as mentally abnormal sex offenders*
7 *committed to a state hospital, confidentiality of records, Section*
8 *4135, Welfare and Institutions Code.*

9 Persons with mental health disorders, court-ordered evaluation,
10 confidentiality of reports, Section 5202, Welfare and Institutions
11 Code.

12 Persons with mental health disorders, confidentiality of written
13 consent to detainment, Section 5326.4, Welfare and Institutions
14 Code.

15 Persons with mental health disorders voluntarily detained and
16 receiving services, confidentiality of records and information,
17 Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9,
18 Welfare and Institutions Code.

19 Persons with mental health disorders, weapons restrictions,
20 confidentiality of information about, Section 8103, Welfare and
21 Institutions Code.

22 Petition signatures, Section 18650, Elections Code.

23 Petroleum supply and pricing, confidential information, Sections
24 25364 and 25366, Public Resources Code.

25 Pharmacist, alcohol or dangerous drug diversion and
26 rehabilitation records, confidentiality of, Section 4372, Business
27 and Professions Code.

28 Physical therapist or assistant, records of dangerous drug or
29 alcohol diversion and rehabilitation, confidentiality of, Section
30 2667, Business and Professions Code.

31 Physical or mental condition or conviction of controlled
32 substance offense, records in Department of Motor Vehicles,
33 confidentiality of, Section 1808.5, Vehicle Code.

34 Physician and surgeon, rehabilitation and diversion records,
35 confidentiality of, Section 2355, Business and Professions Code.

36 Physician assistant, alcohol or dangerous drug diversion and
37 rehabilitation records, confidentiality of, Section 3534.7, Business
38 and Professions Code.

39 Physician competency examination, confidentiality of reports,
40 Section 2294, Business and Professions Code.

1 Physicians and surgeons, confidentiality of reports of patients
2 with a lapse of consciousness disorder, Section 103900, Health
3 and Safety Code.
4 Physician Services Account, confidentiality of patient names in
5 claims, Section 16956, Welfare and Institutions Code.
6 Pilots, confidentiality of personal information, Section 1157.1,
7 Harbors and Navigation Code.
8 Pollution Control Financing Authority, financial data submitted
9 to, subdivision (o), Section 6254.
10 Postmortem or autopsy photos, Section 129, Code of Civil
11 Procedure.
12 SEC. 19. Section 6276.38 of the Government Code is amended
13 to read:
14 6276.38. Radioactive materials, dissemination of information
15 about transportation of, Section 33002, Vehicle Code.
16 Railroad infrastructure protection program, disclosure not
17 required for risk assessments filed with the Public Utilities
18 Commission, the Director of Emergency Services, or the Office
19 of Emergency Services, Section 6254.23.
20 Real estate broker, annual report to Bureau of Real Estate of
21 financial information, confidentiality of, Section 10232.2, Business
22 and Professions Code.
23 Real property, acquisition by state or local government,
24 information relating to feasibility, subdivision (h), Section 6254.
25 Real property, change in ownership statement, confidentiality
26 of, Section 27280.
27 Records described in Section 1620 of the Penal Code.
28 Records of contract purchasers, inspection by public prohibited,
29 Section 85, Military and Veterans Code.
30 Records of persons committed to a state hospital pursuant to
31 Section 4135 of the Welfare and Institutions Code.
32 Registered public obligations, inspection of records of security
33 interests in, Section 5060.
34 Registration of exempt vehicles, nondisclosure of name of person
35 involved in alleged violation, Section 5003, Vehicle Code.
36 Rehabilitation, Department of, confidential information, Section
37 19016, Welfare and Institutions Code.
38 Reinsurance intermediary-broker license information,
39 confidentiality of, Section 1781.3, Insurance Code.

- 1 Relocation assistance, confidential records submitted to a public
2 entity by a business or farm operation, Section 7262.
- 3 Rent control ordinance, confidentiality of information concerning
4 accommodations sought to be withdrawn from, Section 7060.4.
- 5 Report of probation officer, inspection, copies, Section 1203.05,
6 Penal Code.
- 7 Repossession agency licensee application, confidentiality of
8 information, Sections 7503, 7504, and 7506.5, Business and
9 Professions Code.
- 10 Reproductive health facilities, disclosure not required for
11 personal information regarding employees, volunteers, board
12 members, owners, partners, officers, and contractors of a
13 reproductive health services facility who have provided requisite
14 notification, Section 6254.18.
- 15 Residence address in any record of Department of Housing and
16 Community Development, confidentiality of, Section 6254.1.
- 17 Residence address in any record of Department of Motor
18 Vehicles, confidentiality of, Section 6254.1, Government Code,
19 and Section 1808.21, Vehicle Code.
- 20 Residence and mailing addresses in records of Department of
21 Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.
- 22 Residential care facilities, confidentiality of resident information,
23 Section 1568.08, Health and Safety Code.
- 24 Residential care facilities for the elderly, confidentiality of client
25 information, Section 1569.315, Health and Safety Code.
- 26 Respiratory care practitioner, professional competency
27 examination reports, confidentiality of, Section 3756, Business
28 and Professions Code.
- 29 Restraint of trade, civil action by district attorney, confidential
30 memorandum, Section 16750, Business and Professions Code.
- 31 Reward by Governor for information leading to arrest and
32 conviction, confidentiality of person supplying information, Section
33 1547, Penal Code.
- 34 Safe surrender site, confidentiality of information pertaining to
35 a parent or individual surrendering a child, Section 1255.7, Health
36 and Safety Code.
- 37 SEC. 20. Section 7579.1 of the Government Code is amended
38 to read:
- 39 7579.1. (a) Prior to the discharge of any disabled child or youth
40 who has an active individualized education program from a public

1 hospital, proprietary hospital, or residential medical facility
2 pursuant to Article 5.5 (commencing with Section 56167) of
3 Chapter 2 of Part 30 of the Education Code, a licensed children’s
4 institution or foster family home pursuant to Article 5 (commencing
5 with Section 56155) of Chapter 2 of Part 30 of the Education Code,
6 or a state hospital or developmental center, the following shall
7 occur:

8 (1) The operator of the hospital or medical facility, or the agency
9 that placed the child in the licensed children’s institution or foster
10 family home, shall, at least 10 days prior to the discharge of a
11 disabled child or youth, notify in writing the local educational
12 agency in which the special education program for the child is
13 being provided, and the receiving special education local plan area
14 where the child is being transferred, of the impending discharge.

15 (2) The operator or placing agency, as part of the written
16 notification, shall provide the receiving special education local
17 plan area with a copy of the child’s individualized education
18 program, the identity of the individual responsible for representing
19 the interests of the child for educational and related services for
20 the impending placement, and other relevant information about
21 the child that will be useful in implementing the child’s
22 individualized education program in the receiving special education
23 local plan area.

24 (b) Once the disabled child or youth has been discharged, it
25 shall be the responsibility of the receiving local educational agency
26 to ensure that the disabled child or youth receives an appropriate
27 educational placement that commences without delay upon his or
28 her discharge from the hospital, institution, facility, or foster family
29 home in accordance with Section 56325 of the Education Code.
30 Responsibility for the provision of special education rests with the
31 school district of residence of the parent or guardian of the child
32 unless the child is placed in another hospital, institution, facility,
33 or foster family home in which case the responsibility of special
34 education rests with the school district in which the child resides
35 pursuant to Sections 56156.4, 56156.6, and 56167 of the Education
36 Code.

37 (c) Special education local plan area directors shall document
38 instances where the procedures in subdivision (a) are not being
39 adhered to and report these instances to the Superintendent of
40 Public Instruction.

1 SEC. 21. Section 12428 of the Government Code is amended
2 to read:

3 12428. In the event either the Governor or the Legislature
4 should obtain federal approval to transfer programs receiving
5 federal support for persons with an intellectual disability or a
6 mental health disorder from one state department to another state
7 department under the provisions of Public Law 90-577
8 (Intergovernmental Cooperation Act of 1968), the Controller shall,
9 upon approval of the Director of Finance, transfer to a department
10 designated by the Governor the parts of the appropriation of the
11 other departments that are related to programs for persons with an
12 intellectual disability or a mental health disorder, provided further,
13 that the transfer shall enable the state to make maximum utilization
14 of available state and federal funds.

15 SEC. 22. Section 26640 of the Government Code is amended
16 to read:

17 26640. The sheriff shall take charge of, safely keep, and keep
18 a correct account of, all money and valuables found on each
19 prisoner when delivered at the county jail. Except when otherwise
20 ordered by a court of competent jurisdiction, the sheriff shall pay
21 such money or sums therefrom and deliver such valuables or
22 portions thereof as the prisoner directs and shall pay and deliver
23 all the remainder of his money and valuables to the prisoner or to
24 his order upon his release from the jail or to his legal representative
25 in case of his death or legal incapacity to make decisions.

26 SEC. 23. Section 26643 of the Government Code is amended
27 to read:

28 26643. When any prisoner dies or loses the legal capacity to
29 make decisions, the sheriff shall make diligent effort to
30 communicate the fact to friends or relatives of the prisoner, together
31 with information on the state of the prisoner's account.

32 SEC. 24. Section 26749 of the Government Code is amended
33 to read:

34 26749. The sheriff shall receive expenses necessarily incurred
35 in conveying persons to and from the state hospitals and in
36 conveying persons to and from the state prisons or other state
37 institutions, or to other destinations for the purpose of deportation
38 to other states, or in advancing actual traveling expenses to any
39 person committed to a state institution who is permitted to report
40 to an institution without escort, which expenses shall be allowed

1 as provided by Chapter 6 (commencing with Section 4750) of Title
2 5 of Part 3 of the Penal Code for cases subject to that chapter, and,
3 otherwise, by the California Victim Compensation and Government
4 Claims Board and paid by the state.

5 SEC. 25. Section 1250 of the Health and Safety Code is
6 amended to read:

7 1250. As used in this chapter, “health facility” means a facility,
8 place, or building that is organized, maintained, and operated for
9 the diagnosis, care, prevention, and treatment of human illness,
10 physical or mental, including convalescence and rehabilitation and
11 including care during and after pregnancy, or for any one or more
12 of these purposes, for one or more persons, to which the persons
13 are admitted for a 24-hour stay or longer, and includes the
14 following types:

15 (a) “General acute care hospital” means a health facility having
16 a duly constituted governing body with overall administrative and
17 professional responsibility and an organized medical staff that
18 provides 24-hour inpatient care, including the following basic
19 services: medical, nursing, surgical, anesthesia, laboratory,
20 radiology, pharmacy, and dietary services. A general acute care
21 hospital may include more than one physical plant maintained and
22 operated on separate premises as provided in Section 1250.8. A
23 general acute care hospital that exclusively provides acute medical
24 rehabilitation center services, including at least physical therapy,
25 occupational therapy, and speech therapy, may provide for the
26 required surgical and anesthesia services through a contract with
27 another acute care hospital. In addition, a general acute care
28 hospital that, on July 1, 1983, provided required surgical and
29 anesthesia services through a contract or agreement with another
30 acute care hospital may continue to provide these surgical and
31 anesthesia services through a contract or agreement with an acute
32 care hospital. The general acute care hospital operated by the State
33 Department of Developmental Services at Agnews Developmental
34 Center may, until June 30, 2007, provide surgery and anesthesia
35 services through a contract or agreement with another acute care
36 hospital. Notwithstanding the requirements of this subdivision, a
37 general acute care hospital operated by the Department of
38 Corrections and Rehabilitation or the Department of Veterans
39 Affairs may provide surgery and anesthesia services during normal
40 weekday working hours, and not provide these services during

1 other hours of the weekday or on weekends or holidays, if the
2 general acute care hospital otherwise meets the requirements of
3 this section.

4 A “general acute care hospital” includes a “rural general acute
5 care hospital.” However, a “rural general acute care hospital” shall
6 not be required by the department to provide surgery and anesthesia
7 services. A “rural general acute care hospital” shall meet either of
8 the following conditions:

9 (1) The hospital meets criteria for designation within peer group
10 six or eight, as defined in the report entitled Hospital Peer Grouping
11 for Efficiency Comparison, dated December 20, 1982.

12 (2) The hospital meets the criteria for designation within peer
13 group five or seven, as defined in the report entitled Hospital Peer
14 Grouping for Efficiency Comparison, dated December 20, 1982,
15 and has no more than 76 acute care beds and is located in a census
16 dwelling place of 15,000 or less population according to the 1980
17 federal census.

18 (b) “Acute psychiatric hospital” means a health facility having
19 a duly constituted governing body with overall administrative and
20 professional responsibility and an organized medical staff that
21 provides 24-hour inpatient care for persons with mental health
22 ~~disorders, persons lacking legal capacity to make decisions,~~
23 *disorders* or other patients referred to in Division 5 (commencing
24 with Section 5000) or Division 6 (commencing with Section 6000)
25 of the Welfare and Institutions Code, including the following basic
26 services: medical, nursing, rehabilitative, pharmacy, and dietary
27 services.

28 (c) (1) “Skilled nursing facility” means a health facility that
29 provides skilled nursing care and supportive care to patients whose
30 primary need is for availability of skilled nursing care on an
31 extended basis.

32 (2) “Skilled nursing facility” includes a “small house skilled
33 nursing facility (SHSNF),” as defined in Section 1323.5.

34 (d) “Intermediate care facility” means a health facility that
35 provides inpatient care to ambulatory or nonambulatory patients
36 who have recurring need for skilled nursing supervision and need
37 supportive care, but who do not require availability of continuous
38 skilled nursing care.

39 (e) “Intermediate care facility/developmentally disabled
40 habilitative” means a facility with a capacity of 4 to 15 beds that

1 provides 24-hour personal care, habilitation, developmental, and
2 supportive health services to 15 or fewer persons with
3 developmental disabilities who have intermittent recurring needs
4 for nursing services, but have been certified by a physician and
5 surgeon as not requiring availability of continuous skilled nursing
6 care.

7 (f) “Special hospital” means a health facility having a duly
8 constituted governing body with overall administrative and
9 professional responsibility and an organized medical or dental staff
10 that provides inpatient or outpatient care in dentistry or maternity.

11 (g) “Intermediate care facility/developmentally disabled” means
12 a facility that provides 24-hour personal care, habilitation,
13 developmental, and supportive health services to persons with
14 developmental disabilities whose primary need is for
15 developmental services and who have a recurring but intermittent
16 need for skilled nursing services.

17 (h) “Intermediate care facility/developmentally
18 disabled-nursing” means a facility with a capacity of 4 to 15 beds
19 that provides 24-hour personal care, developmental services, and
20 nursing supervision for persons with developmental disabilities
21 who have intermittent recurring needs for skilled nursing care but
22 have been certified by a physician and surgeon as not requiring
23 continuous skilled nursing care. The facility shall serve medically
24 fragile persons with developmental disabilities or who demonstrate
25 significant developmental delay that may lead to a developmental
26 disability if not treated.

27 (i) (1) “Congregate living health facility” means a residential
28 home with a capacity, except as provided in paragraph (4), of no
29 more than 12 beds, that provides inpatient care, including the
30 following basic services: medical supervision, 24-hour skilled
31 nursing and supportive care, pharmacy, dietary, social, recreational,
32 and at least one type of service specified in paragraph (2). The
33 primary need of congregate living health facility residents shall
34 be for availability of skilled nursing care on a recurring,
35 intermittent, extended, or continuous basis. This care is generally
36 less intense than that provided in general acute care hospitals but
37 more intense than that provided in skilled nursing facilities.

38 (2) Congregate living health facilities shall provide one of the
39 following services:

1 (A) Services for persons who are mentally alert, persons with
2 physical disabilities, who may be ventilator dependent.

3 (B) Services for persons who have a diagnosis of terminal
4 illness, a diagnosis of a life-threatening illness, or both. Terminal
5 illness means the individual has a life expectancy of six months
6 or less as stated in writing by his or her attending physician and
7 surgeon. A “life-threatening illness” means the individual has an
8 illness that can lead to a possibility of a termination of life within
9 five years or less as stated in writing by his or her attending
10 physician and surgeon.

11 (C) Services for persons who are catastrophically and severely
12 disabled. A person who is catastrophically and severely disabled
13 means a person whose origin of disability was acquired through
14 trauma or nondegenerative neurologic illness, for whom it has
15 been determined that active rehabilitation would be beneficial and
16 to whom these services are being provided. Services offered by a
17 congregate living health facility to a person who is catastrophically
18 disabled shall include, but not be limited to, speech, physical, and
19 occupational therapy.

20 (3) A congregate living health facility license shall specify which
21 of the types of persons described in paragraph (2) to whom a
22 facility is licensed to provide services.

23 (4) (A) A facility operated by a city and county for the purposes
24 of delivering services under this section may have a capacity of
25 59 beds.

26 (B) A congregate living health facility not operated by a city
27 and county servicing persons who are terminally ill, persons who
28 have been diagnosed with a life-threatening illness, or both, that
29 is located in a county with a population of 500,000 or more persons,
30 or located in a county of the 16th class pursuant to Section 28020
31 of the Government Code, may have not more than 25 beds for the
32 purpose of serving persons who are terminally ill.

33 (C) A congregate living health facility not operated by a city
34 and county serving persons who are catastrophically and severely
35 disabled, as defined in subparagraph (C) of paragraph (2) that is
36 located in a county of 500,000 or more persons may have not more
37 than 12 beds for the purpose of serving persons who are
38 catastrophically and severely disabled.

39 (5) A congregate living health facility shall have a
40 noninstitutional, homelike environment.

1 (j) (1) “Correctional treatment center” means a health facility
2 operated by the Department of Corrections and Rehabilitation, the
3 Department of Corrections and Rehabilitation, Division of Juvenile
4 Facilities, or a county, city, or city and county law enforcement
5 agency that, as determined by the department, provides inpatient
6 health services to that portion of the inmate population who do not
7 require a general acute care level of basic services. This definition
8 shall not apply to those areas of a law enforcement facility that
9 houses inmates or wards who may be receiving outpatient services
10 and are housed separately for reasons of improved access to health
11 care, security, and protection. The health services provided by a
12 correctional treatment center shall include, but are not limited to,
13 all of the following basic services: physician and surgeon,
14 psychiatrist, psychologist, nursing, pharmacy, and dietary. A
15 correctional treatment center may provide the following services:
16 laboratory, radiology, perinatal, and any other services approved
17 by the department.

18 (2) Outpatient surgical care with anesthesia may be provided,
19 if the correctional treatment center meets the same requirements
20 as a surgical clinic licensed pursuant to Section 1204, with the
21 exception of the requirement that patients remain less than 24
22 hours.

23 (3) Correctional treatment centers shall maintain written service
24 agreements with general acute care hospitals to provide for those
25 inmate physical health needs that cannot be met by the correctional
26 treatment center.

27 (4) Physician and surgeon services shall be readily available in
28 a correctional treatment center on a 24-hour basis.

29 (5) It is not the intent of the Legislature to have a correctional
30 treatment center supplant the general acute care hospitals at the
31 California Medical Facility, the California Men’s Colony, and the
32 California Institution for Men. This subdivision shall not be
33 construed to prohibit the Department of Corrections and
34 Rehabilitation from obtaining a correctional treatment center
35 license at these sites.

36 (k) “Nursing facility” means a health facility licensed pursuant
37 to this chapter that is certified to participate as a provider of care
38 either as a skilled nursing facility in the federal Medicare Program
39 under Title XVIII of the federal Social Security Act (42 U.S.C.
40 Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid

1 Program under Title XIX of the federal Social Security Act (42
2 U.S.C. Sec. 1396 et seq.), or as both.

3 (l) Regulations defining a correctional treatment center described
4 in subdivision (j) that is operated by a county, city, or city and
5 county, the Department of Corrections and Rehabilitation, or the
6 Department of Corrections and Rehabilitation, Division of Juvenile
7 Facilities, shall not become effective prior to, or if effective, shall
8 be inoperative until January 1, 1996, and until that time these
9 correctional facilities are exempt from any licensing requirements.

10 (m) “Intermediate care facility/developmentally
11 disabled-continuous nursing (ICF/DD-CN)” means a homelike
12 facility with a capacity of four to eight, inclusive, beds that
13 provides 24-hour personal care, developmental services, and
14 nursing supervision for persons with developmental disabilities
15 who have continuous needs for skilled nursing care and have been
16 certified by a physician and surgeon as warranting continuous
17 skilled nursing care. The facility shall serve medically fragile
18 persons who have developmental disabilities or demonstrate
19 significant developmental delay that may lead to a developmental
20 disability if not treated. ICF/DD-CN facilities shall be subject to
21 licensure under this chapter upon adoption of licensing regulations
22 in accordance with Section 1275.3. A facility providing continuous
23 skilled nursing services to persons with developmental disabilities
24 pursuant to Section 14132.20 or 14495.10 of the Welfare and
25 Institutions Code shall apply for licensure under this subdivision
26 within 90 days after the regulations become effective, and may
27 continue to operate pursuant to those sections until its licensure
28 application is either approved or denied.

29 (n) “Hospice facility” means a health facility licensed pursuant
30 to this chapter with a capacity of no more than 24 beds that
31 provides hospice services. Hospice services include, but are not
32 limited to, routine care, continuous care, inpatient respite care, and
33 inpatient hospice care as defined in subdivision (d) of Section
34 1339.40, and is operated by a provider of hospice services that is
35 licensed pursuant to Section 1751 and certified as a hospice
36 pursuant to Part 418 of Title 42 of the Code of Federal Regulations.

37 SEC. 26. Section 1250.2 of the Health and Safety Code is
38 amended to read:

39 1250.2. (a) (1) As defined in Section 1250, “health facility”
40 includes a “psychiatric health facility,” defined to mean a health

1 facility, licensed by the State Department of Health Care Services,
2 that provides 24-hour inpatient care for people with mental health
3 ~~disorders, people lacking legal capacity to make decisions,~~
4 *disorders* or other persons described in Division 5 (commencing
5 with Section 5000) or Division 6 (commencing with Section 6000)
6 of the Welfare and Institutions Code. This care shall include, but
7 not be limited to, the following basic services: psychiatry, clinical
8 psychology, psychiatric nursing, social work, rehabilitation, drug
9 administration, and appropriate food services for those persons
10 whose physical health needs can be met in an affiliated hospital
11 or in outpatient settings.

12 (2) It is the intent of the Legislature that the psychiatric health
13 facility shall provide a distinct type of service to psychiatric
14 patients in a 24-hour acute inpatient setting. The State Department
15 of Health Care Services shall require regular utilization reviews
16 of admission and discharge criteria and lengths of stay in order to
17 ensure that these patients are moved to less restrictive levels of
18 care as soon as appropriate.

19 (b) (1) The State Department of Health Care Services may issue
20 a special permit to a psychiatric health facility for it to provide
21 structured outpatient services (commonly referred to as SOPS)
22 consisting of morning, afternoon, or full daytime organized
23 programs, not exceeding 10 hours, for acute daytime care for
24 patients admitted to the facility. This subdivision shall not be
25 construed as requiring a psychiatric health facility to apply for a
26 special permit to provide these alternative levels of care.

27 (2) The Legislature recognizes that, with access to structured
28 outpatient services, as an alternative to 24-hour inpatient care,
29 certain patients would be provided with effective intervention and
30 less restrictive levels of care. The Legislature further recognizes
31 that, for certain patients, the less restrictive levels of care eliminate
32 the need for inpatient care, enable earlier discharge from inpatient
33 care by providing a continuum of care with effective aftercare
34 services, or reduce or prevent the need for a subsequent readmission
35 to inpatient care.

36 (c) Any reference in any statute to Section 1250 of the Health
37 and Safety Code shall be deemed and construed to also be a
38 reference to this section.

39 (d) Notwithstanding any other law, and to the extent consistent
40 with federal law, a psychiatric health facility shall be eligible to

1 participate in the medicare program under Title XVIII of the federal
2 Social Security Act (42 U.S.C. Sec. 1395 et seq.), and the medicaid
3 program under Title XIX of the federal Social Security Act (42
4 U.S.C. Sec. 1396 et seq.), if all of the following conditions are
5 met:

6 (1) The facility is a licensed facility.

7 (2) The facility is in compliance with all related statutes and
8 regulations enforced by the State Department of Health Care
9 Services, including regulations contained in Chapter 9
10 (commencing with Section 77001) of Division 5 of Title 22 of the
11 California Code of Regulations.

12 (3) The facility meets the definitions and requirements contained
13 in subdivisions (e) and (f) of Section 1861 of the federal Social
14 Security Act (42 U.S.C. Sec. 1395x(e) and (f)), including the
15 approval process specified in Section 1861(e)(7)(B) of the federal
16 Social Security Act (42 U.S.C. Sec. 1395x(e)(7)(B)), which
17 requires that the state agency responsible for licensing hospitals
18 has ensured that the facility meets licensing requirements.

19 (4) The facility meets the conditions of participation for hospitals
20 pursuant to Part 482 of Title 42 of the Code of Federal Regulations.

21 SEC. 27. Section 1267.8 of the Health and Safety Code is
22 amended to read:

23 1267.8. (a) An intermediate care facility/developmentally
24 disabled habilitative or an intermediate care
25 facility/developmentally disabled—nursing or a congregate living
26 health facility shall meet the same fire safety standards adopted
27 by the State Fire Marshal pursuant to Sections 13113, 13113.5,
28 13143, and 13143.6 that apply to community care facilities, as
29 defined in Section 1502, of similar size and with residents of
30 similar age and ambulatory status. No other state or local
31 regulations relating to fire safety shall apply to these facilities and
32 the requirements specified in this section shall be uniformly
33 enforced by state and local fire authorities.

34 (b) An intermediate care facility/developmentally disabled
35 habilitative or an intermediate care facility/developmentally
36 disabled—nursing or a congregate living health facility shall meet
37 the same seismic safety requirements applied to community care
38 facilities of similar size with residents of similar age and
39 ambulatory status. No additional requirements relating to seismic
40 safety shall apply to such facilities.

1 (c) Whether or not unrelated persons are living together, an
2 intermediate care facility/developmentally disabled habilitative
3 which serves six or fewer persons or an intermediate care
4 facility/developmentally disabled—nursing which serves six or
5 fewer persons or a congregate living health facility shall be
6 considered a residential use of property for the purposes of this
7 article. In addition, the residents and operators of the facility shall
8 be considered a family for the purposes of any law or zoning
9 ordinance that is related to the residential use of property pursuant
10 to this article.

11 (d) For the purposes of all local ordinances, an intermediate
12 care facility/developmentally disabled habilitative that serves six
13 or fewer persons or an intermediate care facility/developmentally
14 disabled—nursing that serves six or fewer persons or a congregate
15 living health facility shall not be included within the definition of
16 a boarding house, rooming house, institution or home for the care
17 of minors, the aged, or persons with mental health disorders, foster
18 care home, guest home, rest home, community residence, or other
19 similar term that implies that the intermediate care
20 facility/developmentally disabled habilitative or intermediate care
21 facility/developmentally disabled—nursing or a congregate living
22 health facility is a business run for profit or differs in any other
23 way from a single-family residence.

24 (e) This section does not forbid a city, county, or other local
25 public entity from placing restrictions on building heights, setback,
26 lot dimensions, or placement of signs of an intermediate care
27 facility/developmentally disabled habilitative that serves six or
28 fewer persons or an intermediate care facility/developmentally
29 disabled—nursing that serves six or fewer persons or a congregate
30 living health facility as long as those restrictions are identical to
31 those applied to other single-family residences.

32 (f) This section does not forbid the application to an intermediate
33 care facility/developmentally disabled habilitative or an
34 intermediate care facility/developmentally disabled—nursing or
35 a congregate living health facility of any local ordinance that deals
36 with health and safety, building standards, environmental impact
37 standards, or any other matter within the jurisdiction of a local
38 public entity, as long as that ordinance does not distinguish
39 intermediate care facility/developmentally disabled habilitative
40 that serves six or fewer persons or an intermediate care

1 facility/developmentally disabled—nursing or a congregate living
2 health facility from other single-family dwellings and that the
3 ordinance does not distinguish residents of the intermediate care
4 facility/developmentally disabled habilitative or intermediate care
5 facility/developmentally disabled—nursing that serves six or fewer
6 persons or a congregate living health facility from persons who
7 reside in other single-family dwellings.

8 (g) No conditional use permit, zoning variance, or other zoning
9 clearance shall be required of an intermediate care
10 facility/developmentally disabled habilitative that serves six or
11 fewer persons or an intermediate care facility/developmentally
12 disabled—nursing that serves six or fewer persons or a congregate
13 living health facility that is not required of a single-family residence
14 in the same zone.

15 (h) Use of a single-family dwelling for purposes of an
16 intermediate care facility/developmentally disabled habilitative
17 serving six or fewer persons or an intermediate care
18 facility/developmentally disabled—nursing that serves six or fewer
19 persons or a congregate living health facility shall not constitute
20 a change of occupancy for purposes of Part 1.5 (commencing with
21 Section 17910) of Division 13 or local building codes. However,
22 nothing in this section supersedes Section 13143 to the extent these
23 provisions are applicable to intermediate care
24 facility/developmentally disabled habilitative providing care for
25 six or fewer residents or an intermediate care
26 facility/developmentally disabled—nursing serving six or fewer
27 persons or a congregate living health facility.

28 SEC. 28. Section 1275.5 of the Health and Safety Code is
29 amended to read:

30 1275.5. (a) The regulations relating to the licensing of
31 hospitals, heretofore adopted by the State Department of Public
32 Health pursuant to former Chapter 2 (commencing with Section
33 1400) of Division 2, and in effect immediately prior to July 1,
34 1973, shall remain in effect and shall be fully enforceable with
35 respect to any hospital required to be licensed by this chapter,
36 unless and until the regulations are readopted, amended, or repealed
37 by the director.

38 (b) The regulations relating to private institutions receiving or
39 caring for persons with mental health disorders, persons with
40 developmental disabilities, and persons who lack legal competence

1 to make decisions heretofore adopted by the Department of Mental
2 Hygiene pursuant to Chapter 1 (commencing with Section 7000)
3 of Division 7 of the Welfare and Institutions Code, and in effect
4 immediately prior to July 1, 1973, shall remain in effect and shall
5 be fully enforceable with respect to any facility, establishment, or
6 institution for the reception and care of persons with mental health
7 disorders, persons with developmental disabilities, and persons
8 who lack legal competence to make decisions required to be
9 licensed by the provisions of this chapter unless and until those
10 regulations are readopted, amended, or repealed by the director.

11 (c) (1) All regulations relating to the licensing of psychiatric
12 health facilities heretofore adopted by the State Department of
13 Health Services, pursuant to authority now vested in the State
14 Department of Health Care Services by Section 4080 of the Welfare
15 and Institutions Code, and in effect immediately preceding
16 September 20, 1988, shall remain in effect and shall be fully
17 enforceable by the State Department of Health Care Services with
18 respect to any facility or program required to be licensed as a
19 psychiatric health facility, unless and until readopted, amended,
20 or repealed by the Director of Health Care Services.

21 (2) The State Department of Health Care Services shall succeed
22 to and be vested with all duties, powers, purposes, functions,
23 responsibilities, and jurisdiction as they relate to licensing
24 psychiatric health facilities.

25 SEC. 29. Section 1276.5 of the Health and Safety Code is
26 amended to read:

27 1276.5. (a) The department shall adopt regulations setting
28 forth the minimum number of equivalent nursing hours per patient
29 required in skilled nursing and intermediate care facilities, subject
30 to the specific requirements of Section 14110.7 of the Welfare and
31 Institutions Code. However, notwithstanding Section 14110.7 or
32 any other law, commencing January 1, 2000, the minimum number
33 of actual nursing hours per patient required in a skilled nursing
34 facility shall be 3.2 hours, except as provided in Section 1276.9.

35 (b) (1) For the purposes of this section, “nursing hours” means
36 the number of hours of work performed per patient day by aides,
37 nursing assistants, or orderlies plus two times the number of hours
38 worked per patient day by registered nurses and licensed vocational
39 nurses (except directors of nursing in facilities of 60 or larger
40 capacity) and, in the distinct part of facilities and freestanding

1 facilities providing care for persons with developmental disabilities
2 or mental health disorders by licensed psychiatric technicians who
3 perform direct nursing services for patients in skilled nursing and
4 intermediate care facilities, except when the skilled nursing and
5 intermediate care facility is licensed as a part of a state hospital,
6 and except that nursing hours for skilled nursing facilities means
7 the actual hours of work, without doubling the hours performed
8 per patient day by registered nurses and licensed vocational nurses.

9 (2) Concurrent with implementation of the first year of rates
10 established under the Medi-Cal Long Term Care Reimbursement
11 Act of 1990 (Article 3.8 (commencing with Section 14126) of
12 Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
13 Code), for the purposes of this section, “nursing hours” means the
14 number of hours of work performed per patient day by aides,
15 nursing assistants, registered nurses, and licensed vocational nurses
16 (except directors of nursing in facilities of 60 or larger capacity)
17 and, in the distinct part of facilities and freestanding facilities
18 providing care for persons with developmental disabilities or
19 mental health disorders, by licensed psychiatric technicians who
20 performed direct nursing services for patients in skilled nursing
21 and intermediate care facilities, except when the skilled nursing
22 and intermediate care facility is licensed as a part of a state hospital.

23 (c) Notwithstanding Section 1276, the department shall require
24 the utilization of a registered nurse at all times if the department
25 determines that the services of a skilled nursing and intermediate
26 care facility require the utilization of a registered nurse.

27 (d) (1) Except as otherwise provided by law, the administrator
28 of an intermediate care facility/developmentally disabled,
29 intermediate care facility/developmentally disabled habilitative,
30 or an intermediate care facility/developmentally disabled—nursing
31 shall be either a licensed nursing home administrator or a qualified
32 intellectual disability professional as defined in Section 483.430
33 of Title 42 of the Code of Federal Regulations.

34 (2) To qualify as an administrator for an intermediate care
35 facility for the developmentally disabled, a qualified intellectual
36 disability professional shall complete at least six months of
37 administrative training or demonstrate six months of experience
38 in an administrative capacity in a licensed health facility, as defined
39 in Section 1250, excluding those facilities specified in subdivisions
40 (e), (h), and (i).

1 SEC. 30. Section 1276.9 of the Health and Safety Code is
2 amended to read:

3 1276.9. (a) A special treatment program service unit distinct
4 part shall have a minimum 2.3 nursing hours per patient per day.

5 (b) For purposes of this section, “special treatment program
6 service unit distinct part” means an identifiable and physically
7 separate unit of a skilled nursing facility or an entire skilled nursing
8 facility that provides therapeutic programs to an identified
9 population group of persons with mental health disorders.

10 (c) For purposes of this section, “nursing hours” means the
11 number of hours of work performed per patient day by aides,
12 nursing assistants, or orderlies, plus two times the number of hours
13 worked per patient day by registered nurses and licensed vocational
14 nurses (except directors of nursing in facilities of 60 or larger
15 capacity), and, in the distinct part of facilities and freestanding
16 facilities providing care for persons with developmental disabilities
17 or mental health disorders, by licensed psychiatric technicians who
18 perform direct nursing services for patients in skilled nursing and
19 intermediate care facilities, except when the skilled nursing and
20 intermediate care facility is licensed as a part of a state hospital.

21 (d) A special treatment program service unit distinct part shall
22 also have an overall average weekly staffing level of 3.2 hours per
23 patient per day, calculated without regard to the doubling of nursing
24 hours, as described in paragraph (1) of subdivision (b) of Section
25 1276.5, for the special treatment program service unit distinct part.

26 (e) The calculation of the overall staffing levels in these facilities
27 for the special treatment program service unit distinct part shall
28 include staff from all of the following categories:

- 29 (1) Certified nurse assistants.
- 30 (2) Licensed vocational nurses.
- 31 (3) Registered nurses.
- 32 (4) Licensed psychiatric technicians.
- 33 (5) Psychiatrists.
- 34 (6) Psychologists.
- 35 (7) Social workers.
- 36 (8) Program staff who provide rehabilitation, counseling, or
37 other therapeutic services.

38 SEC. 31. Section 1505.5 of the Health and Safety Code is
39 amended to read:

1 1505.5. (a) The director shall adopt regulations authorizing
2 residential facilities, as defined in Section 1502, to fill unused
3 capacity on a short-term, time-limited basis to provide temporary
4 respite care for persons who are frail and elderly, adults with
5 functional impairments, and persons with mental health disorders
6 who need 24-hour supervision and who are being cared for by a
7 caretaker or caretakers. The regulations shall address provisions
8 for liability coverage and the level of facility responsibility for
9 routine medical care and medication management, and may require
10 screening of persons to determine the level of care required, a
11 physical history completed by the person's personal physician,
12 and other alternative admission criteria to protect the health and
13 safety of persons applying for respite care. The regulations shall
14 permit these facilities to charge a fee for services provided, which
15 shall include, but not be limited to, supervision, room, leisure
16 activities, and meals.

17 (b) No facility shall accept persons in need of care beyond the
18 level of care for which that facility is licensed.

19 SEC. 32. Section 1566.3 of the Health and Safety Code is
20 amended to read:

21 1566.3. (a) Whether or not unrelated persons are living
22 together, a residential facility that serves six or fewer persons shall
23 be considered a residential use of property for the purposes of this
24 article. In addition, the residents and operators of such a facility
25 shall be considered a family for the purposes of any law or zoning
26 ordinance that relates to the residential use of property pursuant
27 to this article.

28 (b) For the purpose of all local ordinances, a residential facility
29 that serves six or fewer persons shall not be included within the
30 definition of a boarding house, rooming house, institution or home
31 for the care of minors, the aged, or persons with mental health
32 disorders, foster care home, guest home, rest home, community
33 residence, or other similar term that implies that the residential
34 facility is a business run for profit or differs in any other way from
35 a family dwelling.

36 (c) This section shall not be construed to prohibit a city, county,
37 or other local public entity from placing restrictions on building
38 heights, setback, lot dimensions, or placement of signs of a
39 residential facility that serves six or fewer persons as long as those

1 restrictions are identical to those applied to other family dwellings
2 of the same type in the same zone.

3 (d) This section shall not be construed to prohibit the application
4 to a residential care facility of any local ordinance that deals with
5 health and safety, building standards, environmental impact
6 standards, or any other matter within the jurisdiction of a local
7 public entity if the ordinance does not distinguish residential care
8 facilities that serve six or fewer persons from other family
9 dwellings of the same type in the same zone and if the ordinance
10 does not distinguish residents of the residential care facilities from
11 persons who reside in other family dwellings of the same type in
12 the same zone. Nothing in this section shall be construed to limit
13 the ability of a local public entity to fully enforce a local ordinance,
14 including, but not limited to, the imposition of fines and other
15 penalties associated with violations of local ordinances covered
16 by this section.

17 (e) No conditional use permit, zoning variance, or other zoning
18 clearance shall be required of a residential facility that serves six
19 or fewer persons that is not required of a family dwelling of the
20 same type in the same zone.

21 (f) Use of a family dwelling for purposes of a residential facility
22 serving six or fewer persons shall not constitute a change of
23 occupancy for purposes of Part 1. 5 (commencing with Section
24 17910) of Division 13 or local building codes. However, nothing
25 in this section is intended to supersede Section 13143 or 13143.6,
26 to the extent such sections are applicable to residential facilities
27 providing care for six or fewer residents.

28 (g) For the purposes of this section, “family dwelling,” includes,
29 but is not limited to, single-family dwellings, units in multifamily
30 dwellings, including units in duplexes and units in apartment
31 dwellings, mobilehomes, including mobilehomes located in
32 mobilehome parks, units in cooperatives, units in condominiums,
33 units in townhouses, and units in planned unit developments.

34 SEC. 33. Section 1568.0831 of the Health and Safety Code is
35 amended to read:

36 1568.0831. (a) (1) Whether or not unrelated persons are living
37 together, a residential care facility that serves six or fewer persons
38 shall be considered a residential use of property for the purposes
39 of this chapter. In addition, the residents and operators of the
40 facility shall be considered a family for the purposes of any law

1 or zoning ordinance that relates to the residential use of property
2 pursuant to this chapter.

3 (2) For the purpose of all local ordinances, a residential care
4 facility that serves six or fewer persons shall not be included within
5 the definition of a boarding house, rooming house, institution,
6 guest home, rest home, community residence, or other similar term
7 that implies that the residential care facility is a business run for
8 profit or differs in any other way from a family dwelling.

9 (3) This section shall not be construed to prohibit a city, county,
10 or other local public entity from placing restrictions on building
11 heights, setback, lot dimensions, or placement of signs of a
12 residential care facility that serves six or fewer persons as long as
13 the restrictions are identical to those applied to other family
14 dwellings of the same type in the same zone.

15 (4) This section shall not be construed to prohibit the application
16 to a residential care facility of any local ordinance that deals with
17 health and safety, building standards, environmental impact
18 standards, or any other matter within the jurisdiction of a local
19 public entity if the ordinance does not distinguish residential care
20 facilities that serve six or fewer persons from other family
21 dwellings of the same type in the same zone and if the ordinance
22 does not distinguish residents of residential care facilities from
23 persons who reside in other family dwellings of the same type in
24 the same zone.

25 (5) No conditional use permit, zoning variance, or other zoning
26 clearance shall be required of a residential care facility that serves
27 six or fewer persons that is not required of a family dwelling of
28 the same type in the same zone.

29 (6) Use of a family dwelling for purposes of a residential care
30 facility serving six or fewer persons shall not constitute a change
31 of occupancy for purposes of Part 1.5 (commencing with Section
32 17910) of Division 13 or local building codes. However, nothing
33 in this section is intended to supersede Section 13143 or 13143.6,
34 to the extent these sections are applicable to residential care
35 facilities serving six or fewer persons.

36 (b) No fire inspection clearance or other permit, license,
37 clearance, or similar authorization shall be denied to a residential
38 care facility because of a failure to comply with local ordinances
39 from which the facilities are exempt under subdivision (a), provided

1 that the applicant otherwise qualifies for the fire clearance, license,
2 permit, or similar authorization.

3 (c) For the purposes of any contract, deed, or covenant for the
4 transfer of real property executed on or after January 1, 1979, a
5 residential care facility that serves six or fewer persons shall be
6 considered a residential use of property and a use of property by
7 a single family, notwithstanding any disclaimers to the contrary.

8 (d) Nothing in this chapter shall authorize the imposition of rent
9 regulations or controls for licensed residential care facilities.

10 (e) Licensed residential care facilities shall not be subject to
11 controls on rent imposed by any state or local agency or other local
12 government or entity.

13 SEC. 34. Section 1569.5 of the Health and Safety Code is
14 amended to read:

15 1569.5. (a) The director shall adopt regulations authorizing
16 residential care facilities for the elderly, as defined in Section
17 1569.2, to fill unused capacity on a short-term, time-limited basis
18 to provide temporary respite care for persons who are frail and
19 elderly, adults who have functional impairments, or persons with
20 mental health disorders who need 24-hour supervision and who
21 are being cared for by a caretaker or caretakers. The regulations
22 shall address provisions for liability coverage and the level of
23 facility responsibility for routine medical care and medication
24 management, and may require screening of persons to determine
25 the level of care required, a physical history completed by the
26 person's personal physician, and other alternative admission criteria
27 to protect the health and safety of persons applying for respite care.
28 The regulations shall permit these facilities to charge a fee for the
29 services provided, which shall include, but not be limited to,
30 supervision, room, leisure activities, and meals.

31 (b) No facility shall accept persons in need of care beyond the
32 level of care for which that facility is licensed.

33 SEC. 35. Section 1569.85 of the Health and Safety Code is
34 amended to read:

35 1569.85. (a) Whether or not unrelated persons are living
36 together, a residential care facility for the elderly that serves six
37 or fewer persons shall be considered a residential use of property
38 for the purposes of this article. In addition, the residents and
39 operators of the facility shall be considered a family for the

1 purposes of any law or zoning ordinance that relates to the
2 residential use of property pursuant to this article.

3 (b) For the purpose of all local ordinances, a residential care
4 facility for the elderly that serves six or fewer persons shall not be
5 included within the definition of a boarding house, rooming house,
6 institution or home for the care of the aged, guest home, rest home,
7 community residence, or other similar term that implies that the
8 residential care facility for the elderly is a business run for profit
9 or differs in any other way from a family dwelling.

10 (c) This section shall not be construed to forbid a city, county,
11 or other local public entity from placing restrictions on building
12 heights, setback, lot dimensions, or placement of signs of a
13 residential care facility for the elderly that serves six or fewer
14 persons as long as the restrictions are identical to those applied to
15 other family dwellings of the same type in the same zone.

16 (d) This section shall not be construed to forbid the application
17 to a residential care facility for the elderly of any local ordinance
18 that deals with health and safety, building standards, environmental
19 impact standards, or any other matter within the jurisdiction of a
20 local public entity if the ordinance does not distinguish residential
21 care facilities for the elderly that serve six or fewer persons from
22 other family dwellings of the same type in the same zone and if
23 the ordinance does not distinguish residents of the residential care
24 facilities for the elderly from persons who reside in other family
25 dwellings of the same type in the same zone.

26 (e) No conditional use permit, zoning variance, or other zoning
27 clearance shall be required of a residential care facility for the
28 elderly that serves six or fewer persons that is not required of a
29 family dwelling of the same type in the same zone.

30 (f) Use of a family dwelling for purposes of a residential care
31 facility for the elderly serving six or fewer persons shall not
32 constitute a change of occupancy for purposes of Part 1.5
33 (commencing with Section 17910) of Division 13 or local building
34 codes. However, nothing in this section is intended to supersede
35 Section 13143 or 13143.6, to the extent these sections are
36 applicable to residential care facilities for the elderly providing
37 care for six or fewer residents.

38 (g) For the purposes of this section, “family dwelling,” includes,
39 but is not limited to, single-family dwellings, units in multifamily
40 dwellings, including units in duplexes and units in apartment

1 dwellings, mobilehomes, including mobilehomes located in
2 mobilehome parks, units in cooperatives, units in condominiums,
3 units in townhouses, and units in planned unit developments.

4 SEC. 36. Section 11812.6 of the Health and Safety Code is
5 amended to read:

6 11812.6. In addition to any other services authorized under
7 this chapter, the department shall urge the county to develop within
8 existing resources specific policies and procedures to address the
9 unique treatment problems presented by persons who are
10 chemically dependent and also have a mental health disorder.
11 Priority may be given to developing policies and procedures that
12 relate to the diagnosis and treatment of homeless persons who have
13 mental health disorders and are chemically dependent.

14 SEC. 37. Section 11834.23 of the Health and Safety Code is
15 amended to read:

16 11834.23. (a) Whether or not unrelated persons are living
17 together, an alcoholism or drug abuse recovery or treatment facility
18 that serves six or fewer persons shall be considered a residential
19 use of property for the purposes of this article. In addition, the
20 residents and operators of the facility shall be considered a family
21 for the purposes of any law or zoning ordinance that relates to the
22 residential use of property pursuant to this article.

23 (b) For the purpose of all local ordinances, an alcoholism or
24 drug abuse recovery or treatment facility that serves six or fewer
25 persons shall not be included within the definition of a boarding
26 house, rooming house, institution or home for the care of minors,
27 the aged, or persons with mental health disorders, foster care home,
28 guest home, rest home, community residence, or other similar term
29 that implies that the alcoholism or drug abuse recovery or treatment
30 home is a business run for profit or differs in any other way from
31 a single-family residence.

32 (c) This section shall not be construed to forbid a city, county,
33 or other local public entity from placing restrictions on building
34 heights, setback, lot dimensions, or placement of signs of an
35 alcoholism or drug abuse recovery or treatment facility that serves
36 six or fewer persons as long as the restrictions are identical to those
37 applied to other single-family residences.

38 (d) This section shall not be construed to forbid the application
39 to an alcoholism or drug abuse recovery or treatment facility of
40 any local ordinance that deals with health and safety, building

1 standards, environmental impact standards, or any other matter
2 within the jurisdiction of a local public entity. However, the
3 ordinance shall not distinguish alcoholism or drug abuse recovery
4 or treatment facilities that serve six or fewer persons from other
5 single-family dwellings or distinguish residents of alcoholism or
6 drug abuse recovery or treatment facilities from persons who reside
7 in other single-family dwellings.

8 (e) No conditional use permit, zoning variance, or other zoning
9 clearance shall be required of an alcoholism or drug abuse recovery
10 or treatment facility that serves six or fewer persons that is not
11 required of a single-family residence in the same zone.

12 (f) Use of a single-family dwelling for purposes of an alcoholism
13 or drug abuse recovery facility serving six or fewer persons shall
14 not constitute a change of occupancy for purposes of Part 1.5
15 (commencing with Section 17910) of Division 13 or local building
16 codes. However, nothing in this section is intended to supersede
17 Section 13143 or 13143.6, to the extent those sections are
18 applicable to alcoholism or drug abuse recovery or treatment
19 facilities serving six or fewer residents.

20 SEC. 38. Section 13113 of the Health and Safety Code is
21 amended to read:

22 13113. (a) Except as otherwise provided in this section, a
23 person, firm, or corporation shall not establish, maintain, or operate
24 a hospital, children's home, children's nursery, or institution, home
25 or institution for the care of people who are elderly, persons with
26 mental health disorders or intellectual disabilities, or nursing or
27 convalescent home, wherein more than six guests or patients are
28 housed or cared for on a 24-hour-per-day basis unless there is
29 installed and maintained in an operable condition in every building,
30 or portion thereof where patients or guests are housed, an automatic
31 sprinkler system approved by the State Fire Marshal.

32 (b) This section shall not apply to homes or institutions for the
33 24-hour-per-day care of ambulatory children if all of the following
34 conditions are satisfied:

35 (1) The buildings, or portions thereof where children are housed,
36 are not more than two stories in height and are constructed and
37 maintained in accordance with regulations adopted by the State
38 Fire Marshal pursuant to Section 13143 and building standards
39 published in the California Building Standards Code.

1 (2) The buildings, or portions thereof housing more than six
2 children, shall have installed and maintained in an operable
3 condition therein a fire alarm system of a type approved by the
4 State Fire Marshal. The system shall be activated by detectors
5 responding to invisible products of combustion other than heat.

6 (3) The buildings or portions thereof do not house children with
7 mental health disorders or children with intellectual disabilities.

8 (c) This section shall not apply to any one-story building or
9 structure of an institution or home for the care of the aged providing
10 24-hour-per-day care if the building or structure is used or intended
11 to be used for the housing of no more than six ambulatory aged
12 persons. However, the buildings or institutions shall have installed
13 and maintained in an operable condition therein a fire alarm system
14 of a type approved by the State Fire Marshal. The system shall be
15 activated by detectors responding to products of combustion other
16 than heat.

17 (d) This section does not apply to occupancies, or any alterations
18 thereto, located in type I construction, as defined by the State Fire
19 Marshal, under construction or in existence on March 4, 1972.

20 (e) "Under construction," as used in this section, means that
21 actual work shall have been performed on the construction site
22 and shall not be construed to mean that the hospital, home, nursery,
23 institution, sanitarium, or a portion thereof, is in the planning stage.

24 SEC. 39. Section 36130 of the Health and Safety Code is
25 amended to read:

26 36130. The directors of the following departments of state
27 government shall designate or arrange for the designation of local
28 liaison personnel to assist each of the Model Cities programs in
29 the state:

- 30 Department of Corrections and Rehabilitation
- 31 Department of Education
- 32 Department of Health Care Services
- 33 Department of Housing and Community Development
- 34 Department of Human Resources Development
- 35 Department of Industrial Relations
- 36 State Department of Public Health
- 37 Department of Public Works
- 38 Department of Rehabilitation
- 39 Department of Social Services

1 Department of Corrections and Rehabilitation, Division of
2 Juvenile Facilities

3 SEC. 40. Section 50680 of the Health and Safety Code is
4 amended to read:

5 50680. (a) The Legislature finds and declares that recent
6 deemphasis of programs of institutional care for persons with
7 developmental and physical disabilities and persons with mental
8 health disorders has resulted in participation by many of those
9 persons in programs of rehabilitation, education, and social services
10 within the community. Because of the outpatient status of persons
11 enrolled in those programs, there is a need to provide housing for
12 them that will aid in accomplishment and maintenance of the
13 objectives of those programs, thereby minimizing the numbers of
14 persons with developmental and physical disabilities and persons
15 with mental health disorders in public institutions and improving
16 the quality of life for those persons. In order to assist in providing
17 the variety of living arrangements required for this purpose, it is
18 necessary that the state cooperate with cities, counties, cities and
19 counties, and nonprofit corporations in obtaining federal housing
20 subsidies therefor.

21 (b) It is the intent of the Legislature in enacting this chapter to
22 vest in the department authority to obtain federal housing subsidies
23 for housing for persons requiring supportive services, as defined
24 in this part.

25 SEC. 41. Section 50684 of the Health and Safety Code is
26 amended to read:

27 50684. As used in this chapter, “persons with a mental health
28 disorder” means a person who is affected by a mental health
29 disorder rendering the individual eligible to participate in programs
30 of rehabilitation, education, or social services conducted by or on
31 behalf of a public agency.

32 SEC. 42. Section 50685.5 of the Health and Safety Code is
33 amended to read:

34 50685.5. As used in this chapter, “persons requiring supportive
35 services” means persons who are eligible to receive housing
36 assistance pursuant to federal law because of financial inability to
37 provide adequate housing for themselves or persons dependent
38 upon them, who are or will be participating in programs of
39 rehabilitation, education, or social services, and who meet any of
40 the following criteria:

1 (a) The person shall have been determined to have a
2 developmental disability, but not to require institutional care, by
3 the State Department of Developmental Services, a regional center
4 established pursuant to Section 4620 of the Welfare and Institutions
5 Code, or by the designated representative thereof.

6 (b) The person shall have been determined to have a mental
7 health disorder, but not to require institutional care, by a local
8 director of mental health services, by the State Department of
9 Health Care Services, or by the designated representatives thereof.

10 (c) The person shall have been determined to have a physical
11 disability by the Department of Rehabilitation or by the designated
12 representatives thereof.

13 SEC. 43. Section 50688 of the Health and Safety Code is
14 amended to read:

15 50688. The Legislature finds and declares that proper housing
16 serves as a stabilizing factor and is an important facet of any
17 program designed to rehabilitate persons with mental and physical
18 disabilities and persons who have mental health disorders and that
19 the disruption of continued occupancy in a dwelling could cause
20 a setback in treatment in particular cases. It is, therefore, the intent
21 of the Legislature that persons who have received housing under
22 a program established pursuant to Section 50680 shall be allowed
23 to continue to receive rental housing assistance payments subsidies
24 after termination of participation in a public program of
25 rehabilitation, education, or social services if the persons meet the
26 criteria established by federal regulations governing low-rent
27 housing programs.

28 SEC. 44. Section 50689 of the Health and Safety Code is
29 amended to read:

30 50689. (a) It is the intent of the Legislature in enacting this
31 section to provide housing assistance for persons with
32 developmental and physical disabilities and persons with mental
33 health disorders where that assistance is for the purpose of
34 providing a transition from an institutional to an independent
35 setting, and where that assistance is administered in the context of
36 ongoing local programs leading to rehabilitation and independence.

37 (b) The department shall establish a program for the purpose of
38 housing assistance for persons with developmental and physical
39 disabilities and persons with mental health disorders. The
40 department shall contract with local agencies or nonprofit

1 corporations incorporated pursuant to Part 1 (commencing with
2 Section 9000) of Division 2 of Title 1 of the Corporations Code
3 that provide supportive services for those individuals, where those
4 services are designed to provide a transition to independent living.
5 The local agencies or nonprofit corporation shall ensure that
6 recipients of housing assistance are income qualified under
7 guidelines for programs of the federal Department of Housing and
8 Urban Development under Section 8 of the United States Housing
9 Act of 1937, as amended (42 U.S.C. Sec. 1437(f)), and shall not
10 contract for housing that exceeds those guidelines for fair market
11 rents for the Section 8 program. Public and private agencies
12 participating in the program established pursuant to this section
13 shall be those whose program philosophies and activities conform
14 substantially to the principles of community living under Chapter
15 12 (commencing with Section 4830) of Division 4.5, community
16 residential treatment under Chapter 5 (commencing with Section
17 5450) of Part 1 of Division 5, and independent living under Chapter
18 8 (commencing with Section 19800) of Part 2 of Division 10, of
19 the Welfare and Institutions Code.

20 (c) A local agency applying to the department for housing
21 assistance payments shall, in its application, explain how the
22 housing assistance payments are part of its ongoing programs to
23 establish independent living for its clientele. The department, in
24 reviewing these applications, may consult with the Department of
25 Developmental Disabilities, the State Department of Health Care
26 Services, and the Department of Rehabilitation.

27 (d) In order to receive housing assistance payments for a specific
28 structure pursuant to the provisions of this section, the local agency
29 or nonprofit corporation shall not contract for rental of more than
30 12 units, or for rental of space for more than 24 persons, in the
31 structure. No individual shall remain in a payment assisted unit
32 for more than 18 months.

33 SEC. 45. Section 10235.8 of the Insurance Code is amended
34 to read:

35 10235.8. No policy may be delivered or issued for delivery in
36 this state as long-term care insurance if the policy limits or excludes
37 coverage by type of illness, treatment, medical condition, or
38 accident, except as to the following:

- 39 (a) Preexisting conditions or diseases.
40 (b) Alcoholism and drug addiction.

1 (c) Illness, treatment, or a medical condition arising out of any
2 of the following:

- 3 (1) War or act of war, whether declared or undeclared.
- 4 (2) Participation in a felony, riot, or insurrection.
- 5 (3) Service in the Armed Forces or units auxiliary thereto.
- 6 (4) Suicide, whether or not the person had mental capacity to
7 control what he or she was doing, attempted suicide, or
8 intentionally self-inflicted injury.
- 9 (5) Aviation in the capacity of a non-fare-paying passenger.

10 (d) Treatment provided in a government facility, unless
11 otherwise required by law, services for which benefits are available
12 under Medicare or other governmental programs (except Medi-Cal
13 or medicaid), state or federal workers' compensation, employer's
14 liability or occupational disease law, or a motor vehicle no fault
15 law, services provided by a member of the covered person's
16 immediate family, and services for which no charge is normally
17 made in the absence of insurance.

18 (e) This section does not prohibit exclusions and limitations by
19 type of provider or territorial limitations.

20 SEC. 46. Section 4662 of the Labor Code is amended to read:

21 4662. (a) Any of the following permanent disabilities shall be
22 conclusively presumed to be total in character:

- 23 (1) Loss of both eyes or the sight thereof.
- 24 (2) Loss of both hands or the use thereof.
- 25 (3) An injury resulting in a practically total paralysis.
- 26 (4) An injury to the brain resulting in permanent mental
27 incapacity.

28 (b) In all other cases, permanent total disability shall be
29 determined in accordance with the fact.

30 SEC. 47. Section 2672 of the Penal Code is amended to read:

31 2672. (a) For purposes of this article, "informed consent"
32 means that a person must knowingly and intelligently, without
33 duress or coercion, and clearly and explicitly manifest his consent
34 to the proposed organic therapy to the attending physician.

35 (b) A person confined shall not be deemed incapable of informed
36 consent solely by virtue of being diagnosed with a mental health
37 disorder.

38 (c) A person confined shall be deemed incapable of informed
39 consent if the person cannot understand, or knowingly and
40 intelligently act upon, the information specified in Section 2673.

1 (d) A person confined shall be deemed incapable of informed
2 consent if, for any reason, he or she cannot manifest his or her
3 consent to the attending physician.

4 SEC. 48. Section 11151 of the Penal Code is amended to read:

5 11151. Within five days after release of a person convicted of
6 arson from an institution under the jurisdiction of the State
7 Department of State Hospitals, the Director of State Hospitals shall
8 send the notice provided in Section 11150.

9 SEC. 49. Section 9201 of the Probate Code is amended to read:

10 9201. (a) Notwithstanding any other statute, if a claim of a
11 public entity arises under a law, act, or code listed in subdivision
12 (b):

13 (1) The public entity may provide a form to be used for the
14 written notice or request to the public entity required by this
15 chapter. Where appropriate, the form may require the decedent’s
16 social security number, if known.

17 (2) The claim is barred only after written notice or request to
18 the public entity and expiration of the period provided in the
19 applicable section. If no written notice or request is made, the
20 claim is enforceable by the remedies, and is barred at the time,
21 otherwise provided in the law, act, or code.

22 (b)

23

| Law, Act, or Code | Applicable Section |
|--|--|
| 26 Sales and Use Tax Law (com- 27 mencing with Section 6001 of 28 the Revenue and Taxation 29 Code) | Section 6487.1 of the Revenue and Taxation Code |
| 30 Bradley-Burns Uniform Local 31 Sales and Use Tax Law (com- 32 mencing with Section 7200 of 33 the Revenue and Taxation 34 Code) | Section 6487.1 of the Revenue and Taxation Code |
| 35 Transactions and Use Tax Law 36 (commencing with Section 7251 37 of the Revenue and Taxation 38 Code) | Section 6487.1 of the Revenue and Taxation Code |
| 39 Motor Vehicle Fuel License Tax Law 40 (commencing with Section | Section 7675.1 of the Revenue and Taxation Code |

| | | |
|----|---------------------------------|-----------------------------------|
| 1 | 7301 of the Revenue and Taxa- | |
| 2 | tion Code) | |
| 3 | Use Fuel Tax Law (commencing | Section 8782.1 of the Revenue and |
| 4 | with Section 8601 of the Reve- | Taxation Code |
| 5 | nue and Taxation Code) | |
| 6 | Administration of Franchise and | Section 19517 of the Revenue |
| 7 | Income Tax Law (commencing | and Taxation Code |
| 8 | with Section 18401 of the Reve- | |
| 9 | nue and Taxation Code) | |
| 10 | Cigarette Tax Law (commenc- | Section 30207.1 of the Reve- |
| 11 | ing with Section 30001 of the | nue and Taxation Code |
| 12 | Revenue and Taxation Code) | |
| 13 | Alcoholic Beverage Tax Law | Section 32272.1 of the Reve- |
| 14 | (commencing with Section | nue and Taxation Code |
| 15 | 32001 of the Revenue and Taxa- | |
| 16 | tion Code) | |
| 17 | Unemployment Insurance Code | Section 1090 of the Unemploy- |
| 18 | | ment Insurance Code |
| 19 | State Hospitals | Section 7277.1 of the Welfare |
| 20 | (commencing with | and Institutions Code |
| 21 | Section 7200 of the Welfare and | |
| 22 | Institutions Code) | |
| 23 | Medi-Cal Act (commencing | Section 9202 of the Probate |
| 24 | with Section 14000 of the Wel- | Code |
| 25 | fare and Institutions Code) | |
| 26 | Waxman-Duffy Prepaid Health | Section 9202 of the Probate |
| 27 | Plan Act (commencing with Sec- | Code |
| 28 | tion 14200 of the Welfare and | |
| 29 | Institutions Code) | |

30
31 SEC. 50. Section 19201 of the Probate Code is amended to
32 read:

33 19201. (a) Notwithstanding any other statute, if a claim of a
34 public entity arises under a law, act, or code listed in subdivision
35 (b):

36 (1) The public entity may provide a form to be used for the
37 written notice or request to the public entity required by this
38 chapter. Where appropriate, the form may require the decedent's
39 social security number, if known.

1 (2) The claim is barred only after written notice or request to
 2 the public entity and expiration of the period provided in the
 3 applicable section. If no written notice or request is made, the
 4 claim is enforceable by the remedies, and is barred at the time,
 5 otherwise provided in the law, act, or code.

6 (b)

| | Law, Act, or Code | Applicable Section |
|----|--|---|
| 9 | Sales and Use Tax Law (commencing with Section 6001 of the Revenue and Taxation Code) | Section 6487.1 of the Revenue and Taxation Code |
| 13 | Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code) | Section 6487.1 of the Revenue and Taxation Code |
| 18 | Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code) | Section 6487.1 of the Revenue and Taxation Code |
| 22 | Motor Vehicle Fuel License Tax Law (commencing with Section 7301 of the Revenue and Taxation Code) | Section 7675.1 of the Revenue and Taxation Code |
| 27 | Use Fuel Tax Law (commencing with Section 8601 of the Revenue and Taxation Code) | Section 8782.1 of the Revenue and Taxation Code |
| 31 | Administration of Franchise and Income Tax Law (commencing with Section 18401 of the Revenue and Taxation Code) | Section 19517 of the Revenue and Taxation Code |
| 36 | Cigarette Tax Law (commencing with Section 30001 of the Revenue and Taxation Code) | Section 30207.1 of the Revenue and Taxation Code |

| | | |
|----|-----------------------------------|------------------------------------|
| 1 | Alcoholic Beverage Tax Law | Section 32272.1 of the Revenue and |
| 2 | (commencing with Section 32001 of | Taxation Code |
| 3 | the Revenue and Taxation Code) | |
| 4 | | |
| 5 | Unemployment Insurance Code | Section 1090 of the Unemployment |
| 6 | | Insurance Code |
| 7 | | |
| 8 | State Hospitals (commencing with | Section 7277.1 of the Welfare and |
| 9 | Section 7200 of the Welfare and | Institutions Code |
| 10 | Institutions Code) | |
| 11 | | |
| 12 | Medi-Cal Act (commencing with | Section 9202 of the Probate Code |
| 13 | Section 14000 of the Welfare and | |
| 14 | Institutions Code) | |
| 15 | | |
| 16 | Waxman-Duffy Prepaid Health Plan | Section 9202 of the Probate Code |
| 17 | Act (commencing with Section | |
| 18 | 14200 of the Welfare and | |
| 19 | Institutions Code) | |
| 20 | | |

21 SEC. 51. Section 734 of the Public Utilities Code is amended
22 to read:

23 734. When complaint has been made to the commission
24 concerning a rate for a product or commodity furnished or service
25 performed by a public utility, and the commission has found, after
26 investigation, that the public utility has charged an unreasonable,
27 excessive, or discriminatory amount therefor in violation of any
28 of the provisions of this part, the commission may order that the
29 public utility make due reparation to the complainant therefor,
30 with interest from the date of collection if no discrimination will
31 result from that reparation. No order for the payment of reparation
32 upon the ground of unreasonableness shall be made by the
33 commission when the rate in question has, by formal finding, been
34 declared by the commission to be reasonable, and no assignment
35 of a reparation claim shall be recognized by the commission except
36 assignments by operation of law as in cases of death, lack of legal
37 capacity to make decisions, bankruptcy, receivership, or order of
38 court.

39 SEC. 52. Section 5301 of the Streets and Highways Code is
40 amended to read:

1 5301. If a lot or parcel of land belonging to the United States,
2 or to the state, or to a county, city, public agent, mandatory of the
3 government, school board, educational, penal or reform institution,
4 or facility for the housing of persons with developmental or
5 intellectual disabilities or mental health disorders is in use in the
6 performance of a public function, and is included within the district
7 to be assessed to pay the costs and expenses thereof, the legislative
8 body may, in the resolution of intention, declare that the lots or
9 parcels of land, or any of them, shall be omitted from the
10 assessment thereafter to be made to cover the costs and expenses
11 of the work.

12 SEC. 53. Section 18014 of the Streets and Highways Code is
13 amended to read:

14 18014. If lots or parcels of land belonging to the United States,
15 to this state, or to a county, city, public agency, mandatory of the
16 government, school board, educational, penal or reform institution,
17 or facility for housing of persons with developmental or intellectual
18 disabilities or mental health disorders are in use in the performance
19 of a public function and are included within the assessment district,
20 the city council may, in the resolution of intention, declare that
21 the lots or parcels of land, or any of them, shall be omitted from
22 the assessment thereafter to be made to cover the costs and
23 expenses of the improvement. If the lots or parcels of land, or any
24 of them, are omitted from the assessment by the resolution, the
25 total cost and expense of all work done shall be assessed on the
26 remaining lots lying within the limits of the assessment district,
27 without regard to the omitted lots or parcels of land. If the city
28 declares in the resolution of intention that the lots or parcels of
29 land, or any of them, shall be included in the assessment, or if no
30 declaration is made respecting the lots or parcels of land, or any
31 of them, the city shall be liable for the sums thereafter assessed
32 against the lots or parcels of land, and the sums shall be payable
33 by the city out of the general fund unless the city council, in its
34 resolution of intention, designates another fund. However, sums
35 that may be assessed against those lots or parcels of land shall not
36 be payable by the city when those sums are paid by the owner of
37 or the governing body controlling the lots or parcels of land.

38 SEC. 54. Section 18395 of the Streets and Highways Code is
39 amended to read:

1 18395. Whenever a lot or parcel of land belonging to the United
2 States or to the state, or to a county, city, public agent, mandatory
3 of the government, school board, educational, penal or reform
4 institution, or facility for the housing of persons with
5 developmental or intellectual disabilities or mental health disorders
6 and being in use in the performance of a public function abuts the
7 public streets in which street lighting systems are located and are
8 to be improved under the proceedings, the city council may, by
9 resolution adopted prior to the levy of an installment assessment,
10 declare that the lots or parcels of land or any of them shall be
11 omitted from the installment assessments thereafter to be levied
12 to cover the costs and expenses of the improvement.

13 SEC. 55. Section 35466 of the Streets and Highways Code is
14 amended to read:

15 35466. A lot or parcel of land in a public use belonging to the
16 state or to a county, city, district, or other public corporation, public
17 agent, mandatory of the government, school board, educational,
18 penal or reform institution, or facility for the housing of persons
19 with developmental or intellectual disabilities or mental health
20 disorders in use in the performance of a public function and lying
21 within the district is not subject to assessment unless the consent
22 of its governing body to the assessment is filed with the legislative
23 body at or prior to the confirmation of the assessment. If that
24 consent is filed, the land is subject to assessment in the same
25 manner as other land within the district.

26 SEC. 56. Section 26306 of the Water Code is amended to read:

27 26306. The provisions of Sections 26304 and 26305 shall not
28 apply in the following cases:

29 (a) Where the assessments for which the property was sold were
30 paid before the sale.

31 (b) Where the property was redeemed after the sale.

32 (c) Where the land was not subject to assessment at the time it
33 was assessed.

34 (d) Where no assessments were due on the land at the time of
35 the sale.

36 (e) Where fraud is established.

37 (f) Where the deed is void on its face.

38 (g) Where the owner of the land was, at the time of the sale, a
39 minor or a person who lacked mental capacity, in which case the

1 earliest time that the statute of limitations begins to run is when
2 the disability is removed.

3 (h) In an action described in Section 26304 or 26305 based on
4 the alleged ineffectiveness of the collector’s deed to convey the
5 title to minerals or to oil, gas or other hydrocarbon substances
6 which was held by one or more persons other than the owner of
7 the land on the date of the assessment for which the property was
8 sold.

9 SEC. 57. Section 1752.6 of the Welfare and Institutions Code
10 is amended to read:

11 1752.6. The director may, with the approval of the Director of
12 General Services, enter into contracts with colleges, universities,
13 and other organizations for the purposes of research in the field of
14 delinquency and crime prevention and of training special workers,
15 including teachers, institution employees, probation and parole
16 officers, social workers and others engaged, whether as volunteers
17 or for compensation, and whether part time or full time, in the
18 fields of education, recreation, mental health, and treatment and
19 prevention of delinquency.

20 SEC. 58. Section 1756 of the Welfare and Institutions Code is
21 amended to read:

22 1756. Notwithstanding any other law, if, in the opinion of the
23 Chief Deputy Secretary for the Division of Juvenile Justice, the
24 rehabilitation of a person with a mental health disorder or a
25 developmental disability who is confined in a state correctional
26 school may be expedited by treatment at one of the state hospitals
27 under the jurisdiction of the State Department of State Hospitals
28 or the State Department of Developmental Services, the Chief
29 Deputy Secretary for the Division of Juvenile Justice shall certify
30 that fact to the director of the appropriate department who may
31 authorize receipt of the person at one of the hospitals for care and
32 treatment. Upon notification from the director that the person will
33 no longer benefit from further care and treatment in the state
34 hospital, the Chief Deputy Secretary for the Division of Juvenile
35 Justice shall immediately send for, take, and receive the person
36 back into a state correctional school. A person placed in a state
37 hospital under this section who is committed to the authority shall
38 be released from the hospital upon termination of his or her
39 commitment unless a petition for detention of that person is filed

1 under the provisions of Part 1 (commencing with Section 5000)
2 of Division 5.

3 SEC. 59. Section 4011 of the Welfare and Institutions Code is
4 amended to read:

5 4011. (a) The State Department of Health Care Services has
6 jurisdiction over the execution of the laws relating to the care,
7 custody, and treatment of persons with mental health disorders
8 only to the extent and in the manner provided in this code. The
9 State Department of State Hospitals shall have jurisdiction over
10 the execution of the laws relating to care and treatment of persons
11 with mental health disorders under the custody of the State
12 Department of State Hospitals.

13 (b) As used in this division, “establishment” and “institution”
14 include every hospital, boarding home, or other place receiving or
15 caring for persons with mental health disorders.

16 SEC. 60. Section 4016 of the Welfare and Institutions Code is
17 amended to read:

18 4016. In every place in which a person with a mental health
19 disorder may be involuntarily held, the persons confined therein
20 shall be permitted access to, and examination or inspection of,
21 copies of this code.

22 SEC. 61. Section 4021 of the Welfare and Institutions Code is
23 amended to read:

24 4021. (a) When the department has reason to believe that a
25 person held in custody as having a mental health disorder is
26 wrongfully deprived of his or her liberty, or is cruelly or negligently
27 treated, or that inadequate provision is made for the skillful medical
28 care, proper supervision, and safekeeping of that person, it may
29 ascertain the facts. It may issue compulsory process for the
30 attendance of witnesses and the production of papers, and may
31 exercise the powers conferred upon a referee in a superior court.
32 It may make such orders for the care and treatment of such person
33 as it deems proper.

34 (b) Whenever the department undertakes an investigation into
35 the general management and administration of an establishment
36 or place of detention for persons with mental health disorders, it
37 may give notice of that investigation to the Attorney General, who
38 shall appear personally or by deputy, to examine witnesses in
39 attendance and to assist the department in the exercise of the
40 powers conferred upon it in this code.

1 SEC. 62. Section 4022 of the Welfare and Institutions Code is
2 amended to read:

3 4022. When complaint is made to the department regarding
4 the officers or management of a hospital or institution for persons
5 with mental health disorders, or regarding the management of a
6 person detained therein or regarding a person held in custody as
7 having a mental health disorder, the department may, before
8 making an examination regarding the complaint, require it to be
9 made in writing and sworn to before an officer authorized to
10 administer oaths. On receipt of such a complaint, sworn to if so
11 required, the department shall direct that a copy of the complaint
12 be served on the authorities of the hospital or institution or the
13 person against whom complaint is made, together with notice of
14 the time and place of the investigation, as the department directs.

15 SEC. 63. Section 4042 of the Welfare and Institutions Code is
16 amended to read:

17 4042. The State Department of State Hospitals shall cooperate
18 and coordinate with other state and local agencies engaged in
19 research and evaluation studies. Effort shall be made to coordinate
20 with research, evaluation, and demonstration efforts of local mental
21 health programs, state hospitals serving persons with mental health
22 disorders, the Department of Rehabilitation, the State Department
23 of Developmental Services, the State Department of Health Care
24 Services, universities, and other special projects conducted or
25 contracted for by the State Department of State Hospitals.

26 SEC. 64. Section 4080 of the Welfare and Institutions Code is
27 amended to read:

28 4080. (a) Psychiatric health facilities, as defined in Section
29 1250.2 of the Health and Safety Code, shall only be licensed by
30 the State Department of Health Care Services subsequent to
31 application by counties, county contract providers, or other
32 organizations pursuant to this part.

33 (b) (1) For counties or county contract providers that choose
34 to apply, the local mental health director shall first present to the
35 local mental health advisory board for its review an explanation
36 of the need for the facility and a description of the services to be
37 provided. The local mental health director shall then submit to the
38 governing body the explanation and description. The governing
39 body, upon its approval, may submit the application to the State
40 Department of Health Care Services.

1 (2) Other organizations that will be applying for licensure and
2 do not intend to use any Bronzan-McCorquodale funds pursuant
3 to Section 5707 shall submit to the local mental health director
4 and the governing body in the county in which the facility is to be
5 located a written and dated proposal of the services to be provided.
6 The local mental health director and governing body shall have
7 30 days during which to provide advice and recommendations
8 regarding licensure, as they deem appropriate. At any time after
9 the 30-day period, the organizations may then submit their
10 applications, along with the mental health director's and governing
11 body's advice and recommendations, if any, to the State
12 Department of Health Care Services.

13 (c) The State Fire Marshal and other appropriate state agencies,
14 to the extent required by law, shall cooperate fully with the State
15 Department of Health Care Services to ensure that the State
16 Department of Health Care Services approves or disapproves the
17 licensure applications not later than 90 days after the application
18 submission by a county, county contract provider, or other
19 organization.

20 (d) Every psychiatric health facility and program for which a
21 license has been issued shall be periodically inspected by a
22 multidisciplinary team appointed or designated by the State
23 Department of Health Care Services. The inspection shall be
24 conducted no less than once every two years and as often as
25 necessary to ensure the quality of care provided. During the
26 inspections the review team shall offer advice and assistance to
27 the psychiatric health facility as it deems appropriate.

28 (e) (1) The program aspects of a psychiatric health facility that
29 shall be reviewed and may be approved by the State Department
30 of Health Care Services shall include, but not be limited to:

- 31 (A) Activities programs.
- 32 (B) Administrative policies and procedures.
- 33 (C) Admissions, including provisions for a mental evaluation.
- 34 (D) Discharge planning.
- 35 (E) Health records content.
- 36 (F) Health records services.
- 37 (G) Interdisciplinary treatment teams.
- 38 (H) Nursing services.
- 39 (I) Patient rights.
- 40 (J) Pharmaceutical services.

- 1 (K) Program space requirements.
- 2 (L) Psychiatrist and clinical psychological services.
- 3 (M) Rehabilitation services.
- 4 (N) Restraint and seclusion.
- 5 (O) Social work services.
- 6 (P) Space, supplies, and equipment.
- 7 (Q) Staffing standards.
- 8 (R) Unusual occurrences.
- 9 (S) Use of outside resources, including agreements with general
- 10 acute care hospitals.
- 11 (T) Linguistic access and cultural competence.
- 12 (U) Structured outpatient services to be provided under special
- 13 permit.
- 14 (2) The State Department of Health Care Services has the sole
- 15 authority to grant program flexibility.
- 16 (f) Commencing July 1, 2013, the State Department of Health
- 17 Care Services may adopt regulations regarding psychiatric health
- 18 facilities that shall include, but not be limited to, all of the
- 19 following:
- 20 (1) Procedures by which the State Department of Health Care
- 21 Services shall review and may approve the program and facility
- 22 requesting licensure as a psychiatric health facility as being in
- 23 compliance with program standards established by the department.
- 24 (2) Procedures by which the Director of Health Care Services
- 25 shall approve, or deny approval of, the program and facility
- 26 licensed as a psychiatric health facility pursuant to this section.
- 27 (3) Provisions for site visits by the State Department of Health
- 28 Care Services for the purpose of reviewing a facility's compliance
- 29 with program and facility standards.
- 30 (4) Provisions for the State Department of Health Care Services
- 31 for any administrative proceeding regarding denial, suspension,
- 32 or revocation of a psychiatric health facility license.
- 33 (5) Procedures for the appeal of an administrative finding or
- 34 action pursuant to paragraph (4) of this subdivision and subdivision
- 35 (j).
- 36 (g) Regulations may be adopted by the State Department of
- 37 Health Care Services that establish standards for pharmaceutical
- 38 services in psychiatric health facilities. Licensed psychiatric health
- 39 facilities shall be exempt from requirements to obtain a separate
- 40 pharmacy license or permit.

1 (h) (1) It is the intent of the Legislature that the State
2 Department of Health Care Services shall license the facility in
3 order to establish innovative and more competitive and specialized
4 acute care services.

5 (2) The State Department of Health Care Services shall review
6 and may approve the program aspects of public or private facilities,
7 with the exception of those facilities that are federally certified or
8 accredited by a nationally recognized commission that accredits
9 health care facilities, only if the average per diem charges or costs
10 of service provided in the facility is approximately 60 percent of
11 the average per diem charges or costs of similar psychiatric services
12 provided in a general hospital.

13 (3) (A) When a private facility is accredited by a nationally
14 recognized commission that accredits health care facilities, the
15 State Department of Health Care Services shall review and may
16 approve the program aspects only if the average per diem charges
17 or costs of service provided in the facility do not exceed
18 approximately 75 percent of the average per diem charges or costs
19 of similar psychiatric service provided in a psychiatric or general
20 hospital.

21 (B) When a private facility serves county patients, the State
22 Department of Health Care Services shall review and may approve
23 the program aspects only if the facility is federally certified by the
24 federal Centers for Medicare and Medicaid Services and serves a
25 population mix that includes a proportion of Medi-Cal patients
26 sufficient to project an overall cost savings to the county, and the
27 average per diem charges or costs of service provided in the facility
28 do not exceed approximately 75 percent of the average per diem
29 charges or costs of similar psychiatric service provided in a
30 psychiatric or general hospital.

31 (4) When a public facility is federally certified by the federal
32 Centers for Medicare and Medicaid Services and serves a
33 population mix that includes a proportion of Medi-Cal patients
34 sufficient to project an overall program cost savings with
35 certification, the State Department of Health Care Services shall
36 approve the program aspects only if the average per diem charges
37 or costs of service provided in the facility do not exceed
38 approximately 75 percent of the average per diem charges or costs
39 of similar psychiatric service provided in a psychiatric or general
40 hospital.

1 (5) (A) The State Department of Health Care Services may set
2 a lower rate for private or public facilities than that required by
3 paragraph (3) or (4), if so required by the federal Centers for
4 Medicare and Medicaid Services as a condition for the receipt of
5 federal matching funds.

6 (B) This section does not impose any obligation on any private
7 facility to contract with a county for the provision of services to
8 Medi-Cal beneficiaries, and any contract for that purpose is subject
9 to the agreement of the participating facility.

10 (6) (A) In using the guidelines specified in this subdivision,
11 the State Department of Health Care Services shall take into
12 account local conditions affecting the costs or charges.

13 (B) In those psychiatric health facilities authorized by special
14 permit to offer structured outpatient services not exceeding 10
15 daytime hours, the following limits on per diem rates shall apply:

16 (i) The per diem charge for patients in both a morning and an
17 afternoon program on the same day shall not exceed 60 percent of
18 the facility's authorized per diem charge for inpatient services.

19 (ii) The per diem charge for patients in either a morning or
20 afternoon program shall not exceed 30 percent of the facility's
21 authorized per diem charge for inpatient services.

22 (i) The licensing fees charged for these facilities shall be credited
23 to the State Department of Health Care Services for its costs
24 incurred in the review of psychiatric health facility programs, in
25 connection with the licensing of these facilities.

26 (j) (1) The State Department of Health Care Services shall
27 establish a system for the imposition of prompt and effective civil
28 sanctions against psychiatric health facilities in violation of the
29 laws and regulations of this state pertaining to psychiatric health
30 facilities. If the State Department of Health Care Services
31 determines that there is or has been a failure, in a substantial
32 manner, on the part of a psychiatric health facility to comply with
33 the laws and regulations, the Director of Health Care Services may
34 impose the following sanctions:

35 (A) Cease and desist orders.

36 (B) Monetary sanctions, which may be imposed in addition to
37 the penalties of suspension, revocation, or cease and desist orders.
38 The amount of monetary sanctions permitted to be imposed
39 pursuant to this subparagraph shall not be less than fifty dollars
40 (\$50) nor more than one hundred dollars (\$100) multiplied by the

1 licensed bed capacity, per day, for each violation. However, the
2 monetary sanction shall not exceed three thousand dollars (\$3,000)
3 per day. A facility that is assessed a monetary sanction under this
4 subparagraph, and that repeats the deficiency, may, in accordance
5 with the regulations adopted pursuant to this subdivision, be subject
6 to immediate suspension of its license until the deficiency is
7 corrected.

8 (2) The State Department of Health Care Services may adopt
9 regulations necessary to implement this subdivision and paragraph
10 (5) of subdivision (f) in accordance with the Administrative
11 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
12 Part 1 of Division 3 of Title 2 of the Government Code).

13 (k) Proposed changes in the standards or regulations affecting
14 health facilities that serve persons with mental health disorders
15 shall be effected only with the review and coordination of the
16 California Health and Human Services Agency.

17 (l) In psychiatric health facilities where the clinical director is
18 not a physician, a psychiatrist, or if one is temporarily not available,
19 a physician shall be designated who shall direct those medical
20 treatments and services that can only be provided by, or under the
21 direction of, a physician.

22 SEC. 65. Section 4109.5 of the Welfare and Institutions Code
23 is amended to read:

24 4109.5. (a) Whenever the department proposes the closure of
25 a state hospital, it shall submit as part of the Governor's proposed
26 budget to the Legislature a complete program, to be developed
27 jointly by the State Department of State Hospitals and the county
28 in which the state hospital is located, for absorbing as many of the
29 staff of the hospital into the local mental health programs as may
30 be needed by the county. Those programs shall include a
31 redefinition of occupational positions, if necessary, and a
32 recognition by the counties of licensed psychiatric technicians for
33 treatment of persons with developmental disabilities, persons with
34 mental health disorders, drug abusers, and alcoholics.

35 (b) The Director of State Hospitals shall submit all plans for the
36 closure of state hospitals as a report with the department's budget.
37 This report shall include all of the following:

- 38 (1) The land and buildings affected.
- 39 (2) The number of patients affected.
- 40 (3) Alternative plans for patients presently in the facilities.

1 (4) Alternative plans for patients who would have been served
2 by the facility assuming it was not closed.

3 (5) A joint statement of the impact of the closure by the
4 department and affected local treatment programs.

5 (c) These plans may be submitted to the Legislature until April
6 1 of each budget year. Plans submitted after that date shall not be
7 considered until the fiscal year following that in which it was
8 submitted.

9 (d) The plan shall not be placed into effect unless the Legislature
10 specifically approves the plan.

11 (e) This section shall not apply to the proposed closure of a
12 developmental center.

13 SEC. 66. Section 4119 of the Welfare and Institutions Code is
14 amended to read:

15 4119. (a) The State Department of State Hospitals shall
16 investigate and examine all nonresident persons residing in a state
17 hospital and shall cause these persons, when found to be
18 nonresidents as defined in this chapter, to be promptly and
19 humanely returned under proper supervision to the states in which
20 they have legal residence. The department may defer that action
21 by reason of a patient's medical condition.

22 (b) Prior to returning the judicially committed nonresident to
23 his or her proper state of residency, the department shall do either
24 of the following:

25 (1) Obtain the written consent of the prosecuting attorney of
26 the committing county, the judicially committed nonresident
27 person, and the attorney of record for the judicially committed
28 nonresident person.

29 (2) In the department's discretion request a hearing in the
30 superior court of the committing county requesting a judicial
31 determination of the proposed transfer, notify the court that the
32 state of residence has agreed to the transfer, and file the
33 department's recommendation with a report explaining the reasons
34 for its recommendation.

35 (c) The court shall give notice of the hearing to the prosecuting
36 attorney, the judicially committed nonresident person, the attorney
37 of record for the judicially committed nonresident person, and the
38 department, no less than 30 days before the hearing. At the hearing,
39 the prosecuting attorney and the judicially committed nonresident
40 person may present evidence bearing on the intended transfer.

1 After considering all evidence presented, the court shall determine
2 whether the intended transfer is in the best interest of, and for the
3 proper protection of, the nonresident person and the public. The
4 court shall use the same procedures and standard of proof as used
5 in conducting probation revocation hearings pursuant to Section
6 1203.2 of the Penal Code.

7 (d) For the purpose of facilitating the prompt and humane return
8 of these persons, the State Department of State Hospitals may enter
9 into reciprocal agreements with the proper boards, commissions,
10 or officers of other states or political subdivision thereof for the
11 mutual exchange or return of persons residing in any state hospital
12 in one state whose legal residence is in the other, and it may in
13 these reciprocal agreements vary the period of residence as defined
14 in this chapter to meet the requirements or laws of the other states.

15 (e) The department may give written permission for the return
16 of a resident of this state confined in a public institution in another
17 state, corresponding to a state hospital of this state. When a resident
18 is returned to this state pursuant to this chapter, he or she may be
19 admitted as a voluntary patient to an institution of the department
20 as designated by the Director of State Hospitals. If he or she has
21 a mental health disorder and is a danger to himself or herself or
22 others, or he or she is gravely disabled, he or she may be detained
23 and given care and services in accordance with the provisions of
24 Part 1 (commencing with Section 5000) of Division 5.

25 SEC. 67. Section 4120 of the Welfare and Institutions Code is
26 amended to read:

27 4120. (a) Except as otherwise provided in this section, in
28 determining residence for purposes of being entitled to
29 hospitalization in this state and for purposes of returning patients
30 to the states of their residence, an adult person who has lived
31 continuously in this state for a period of one year and who has not
32 acquired residence in another state by living continuously therein
33 for at least one year subsequent to his residence in this state shall
34 be deemed to be a resident of this state. Except as otherwise
35 provided in this section a minor is entitled to hospitalization in
36 this state if the parent or guardian or conservator having custody
37 of the minor has lived continuously in this state for a period of one
38 year and has not acquired residence in another state by living
39 continuously therein for at least one year subsequent to his
40 residence in this state. The parent, guardian, or conservator shall

1 be deemed a resident of this state for the purposes of this section,
2 and the minor shall be eligible for hospitalization in this state as
3 a person with a mental health disorder. The eligibility of the minor
4 for hospitalization in this state ceases when the parent, guardian,
5 or conservator ceases to be a resident of this state and the minor
6 shall be transferred to the state of residence of the parent, guardian,
7 or conservator in accordance with the applicable provisions of this
8 code. Time spent in a public institution for the care of persons with
9 developmental disabilities or mental health disorders, or on leave
10 of absence therefrom, shall not be counted in determining the
11 matter of residence in this or another state.

12 (b) Residence acquired in this or in another state shall not be
13 lost by reason of military service in the Armed Forces of the United
14 States.

15 SEC. 68. Section 4121 of the Welfare and Institutions Code is
16 amended to read:

17 4121. (a) All expenses incurred in returning these persons to
18 other states shall be paid by this state, the person, or his or her
19 relatives, but the expense of returning residents of this state shall
20 be borne by the states making the returns.

21 (b) The cost and expense incurred in effecting the transportation
22 of these nonresident persons to the states in which they have
23 residence shall be advanced from the funds appropriated for that
24 purpose, or, if necessary, from the money appropriated for the care
25 of persons who are delinquent or have mental health disorders.

26 SEC. 69. Section 4132 of the Welfare and Institutions Code is
27 amended to read:

28 4132. (a) It is hereby declared that the provisions of this code
29 reflect the concern of the Legislature that persons with mental
30 health disorders are to be regarded as patients to be provided care
31 and treatment and not as inmates of institutions for the purposes
32 of secluding them from the rest of the public.

33 (b) Whenever any provision of this code heretofore or hereafter
34 enacted uses the term "inmate," it shall be construed to mean
35 "patient."

36 ~~SEC. 70. Section 4135 of the Welfare and Institutions Code is~~
37 ~~amended to read:~~

38 ~~4135. The petition for commitment of a person as a mentally~~
39 ~~abnormal sex offender, the reports, the court orders, and other~~
40 ~~court documents filed in the court in connection therewith shall~~

1 not be open to inspection by any other than the parties to the
2 proceeding, the attorneys for the party or parties, and the State
3 Department of State Hospitals, except upon the written authority
4 of a judge of the superior court of the county in which the
5 proceedings were had.

6 ~~Records of the supervision, care, and treatment given to a person~~
7 ~~committed to the State Department of State Hospitals as a mentally~~
8 ~~abnormal sex offender shall not be open to the inspection of any~~
9 ~~person not in the employ of the department or of the state hospital,~~
10 ~~except that a judge of the superior court may by order permit~~
11 ~~examination of those records.~~

12 ~~SEC. 71.~~

13 *SEC. 70.* Section 4136 of the Welfare and Institutions Code is
14 amended to read:

15 4136. (a) Each patient in a state hospital who has resided in
16 the state hospital for a period of at least 30 days shall be paid an
17 amount of aid for his or her personal and incidental needs that,
18 when added to his or her income, equals twelve dollars and fifty
19 cents (\$12.50) per month. If a patient elects to do so, a patient may
20 save all or any portion of his or her monthly amount of aid provided
21 for personal and incidental needs for expenditure in subsequent
22 months.

23 (b) Each indigent patient in a state hospital shall be allotted
24 sufficient materials for one letter each week, including postage in
25 an amount not to exceed the cost of one stamp for first-class mail
26 for a one-ounce letter, at no cost to the patient.

27 (c) Each newly admitted patient, for the first 30 days after his
28 or her initial admission, shall be allotted sufficient materials for
29 two letters each week, including postage for first-class mail for up
30 to two one-ounce letters per week. The hospital administrator shall
31 ensure that additional writing materials and postage are available
32 for purchase by patients at the store or canteen on hospital grounds.

33 (d) For purposes of this section, "indigent patient" means a
34 patient whose income is no more than twelve dollars and fifty cents
35 (\$12.50) per month.

36 ~~SEC. 72.~~

37 *SEC. 71.* Section 4200 of the Welfare and Institutions Code is
38 amended to read:

39 4200. (a) Each state hospital under the jurisdiction of the State
40 Department of State Hospitals shall have a hospital advisory board

1 of eight members appointed by the Governor from a list of
2 nominations submitted to him or her by the boards of supervisors
3 of counties within each hospital's designated service area. If a state
4 hospital provides services for both persons with mental health
5 disorders and persons with developmental disabilities, there shall
6 be a separate advisory board for the program provided to persons
7 with mental health disorders and a separate board for the program
8 provided to persons with developmental disabilities. To the extent
9 feasible, an advisory board serving a hospital for persons with
10 mental health disorders shall consist of one member who has been
11 a patient in a state hospital and two members shall be the parents,
12 spouse, siblings, or adult children of persons who are or have been
13 patients in a state hospital, three representatives of different
14 professional disciplines selected from primary user counties for
15 patients under Part 1 (commencing with Section 5000) of Division
16 5, and two representatives of the general public who have
17 demonstrated an interest in services to people with mental health
18 disorders.

19 (b) Of the members first appointed after the operative date of
20 the amendments made to this section during the 1975–76 legislative
21 session, one shall be appointed for a term of two years, and one
22 for three years. Thereafter, each appointment shall be for the term
23 of three years, except that an appointment to fill a vacancy shall
24 be for the unexpired term only. No person shall be appointed to
25 serve more than a maximum of two terms as a member of the
26 board.

27 (c) Notwithstanding any provision of this section, members
28 serving on the hospital advisory board on the operative date of the
29 amendments made to this section during the 1987–88 legislative
30 session, may continue to serve on the board until the expiration of
31 their term. The Legislature intends that changes in the composition
32 of the board required by these amendments apply to future
33 vacancies on the board.

34 ~~SEC. 73.~~

35 *SEC. 72.* Section 4202.5 of the Welfare and Institutions Code
36 is amended to read:

37 4202.5. (a) The chairman of a hospital advisory board advising
38 a hospital for persons with mental health disorders shall meet
39 annually with the hospital director, the community mental health

1 directors, and the chairmen of the mental health advisory boards
2 representing counties within the hospital's designated service area.

3 (b) The chairmen shall be allowed necessary expenses incurred
4 in attending these meetings.

5 (c) It is the intent of the Legislature that the department assist
6 the development of annual regional meetings required by this
7 section.

8 ~~SEC. 74.~~

9 *SEC. 73.* Section 4240 of the Welfare and Institutions Code is
10 amended to read:

11 4240. The Legislature finds and declares all of the following:

12 (a) The symptoms and behaviors of persons with serious mental
13 health disorders may cause severe disruption of normal family
14 relationships.

15 (b) Families are often the principal caregivers, housing
16 providers, and case managers for family members with serious
17 mental health disorders.

18 (c) Families of persons with serious mental health disorders
19 more often than not have little or no legal authority over their adult
20 family members with mental health disorders who are sometimes
21 difficult to manage. Consequently, they need advice, skills,
22 emotional support, and guidance to cope with the stressful burden
23 of caregiving in order to be effective and helpful.

24 (d) Involved families are of inestimable value to the publicly
25 funded and professionally operated state and county mental health
26 system and programs emphasizing self-help can be the best way
27 to assist families in maintaining the cohesion of family life while
28 caring for and assisting a family member with a mental health
29 disorder.

30 (e) Since the state's mental health resources are limited and are
31 increasingly being directed on a priority basis toward provision of
32 services to persons with serious mental health disorders, informed
33 and active families helping one another can effectively extend and
34 amplify the value of state mental health dollars.

35 ~~SEC. 75.~~

36 *SEC. 74.* Section 4241 of the Welfare and Institutions Code is
37 amended to read:

38 4241. (a) It is the intent of the Legislature, by this chapter, to
39 support an organized program of self-help in which families
40 exchange information, advice, and emotional support to enable

1 them to maintain and strengthen family life and secure or provide
2 more effective treatment, care, and rehabilitation for family
3 members with mental health disorders.

4 (b) It is further the intent of the Legislature to utilize an existing
5 organized statewide network of families, who have family members
6 with mental health disorders, as a means of delivering the services
7 designated in this chapter.

8 ~~SEC. 76.~~

9 *SEC. 75.* Section 4243 of the Welfare and Institutions Code is
10 amended to read:

11 4243. (a) All funds appropriated for the purposes of this
12 chapter shall be used to contract with an organization to establish
13 a statewide network of families who have family members with
14 mental health disorders for the purpose of providing information,
15 advice, support, and other assistance to these families.

16 (b) A request for proposal shall be issued seeking applicants
17 who are capable of supplying the services specified in Section
18 4244. The respondent organizations shall demonstrate that they:

19 (1) Focus their activities exclusively on persons with serious
20 mental health disorders.

21 (2) Have experience in successfully working with state agencies,
22 including, but not limited to, the State Department of State
23 Hospitals.

24 (3) Have the ability to reach and involve the target population
25 as active members.

26 (4) Have proven experience providing structured self-help
27 services that benefit the target population.

28 (5) Have experience holding statewide and local conferences
29 to educate families and professionals regarding the needs of persons
30 with mental health disorders.

31 (6) Have the financial and organizational structure and
32 experience to manage the funds provided under the proposed
33 contract.

34 ~~SEC. 77.~~

35 *SEC. 76.* Section 4244 of the Welfare and Institutions Code is
36 amended to read:

37 4244. The Director of State Hospitals shall enter into a contract
38 with the successful bidder to provide services that shall include,
39 but not be necessarily limited to, all of the following:

1 (a) Production and statewide dissemination of information to
2 families regarding methods of obtaining and evaluating services
3 needed by family members with mental health disorders.

4 (b) Provision of timely advice, counseling, and other supportive
5 services to assist families in coping with emotional stress and to
6 enable them to care for or otherwise assist family members with
7 mental disorders.

8 (c) Organizing family self-help services in local communities,
9 accessible to families throughout the state.

10 (d) Conducting training programs for mental health practitioners
11 and college and university students to inform current and future
12 mental health professionals of the needs of families and methods
13 of utilizing family resources to assist clients with mental health
14 disorders.

15 ~~SEC. 78.~~

16 *SEC. 77.* Section 4304 of the Welfare and Institutions Code is
17 amended to read:

18 4304. The primary purpose of a state hospital is the medical
19 and nursing care of patients with mental health disorders. The
20 efforts and direction of the officers and employees of each state
21 hospital shall be directed to this end.

22 ~~SEC. 79.~~

23 *SEC. 78.* Section 4308 of the Welfare and Institutions Code is
24 amended to read:

25 4308. (a) If a vacancy occurs in a hospital under the
26 jurisdiction of the Director of State Hospitals, he or she shall
27 appoint, as provided in Section 4301, a clinical director, a hospital
28 administrator, a hospital director, and program directors.

29 (b) A hospital administrator shall be a college graduate,
30 preferably with an advanced degree in hospital, business, or public
31 administration and shall have had experience in this area. He or
32 she shall receive a salary that is competitive with other private and
33 public mental hospital administrators.

34 (c) A clinical director for a state hospital shall be a physician
35 who has passed, or shall pass, an examination for a license to
36 practice medicine in California and shall be a qualified specialist
37 in a branch of medicine that includes diseases affecting the brain
38 and nervous system. The clinical director for a state hospital shall
39 be well qualified by training or experience to have proven skills
40 in mental hospital program administration.

1 (d) The hospital director shall be either the hospital administrator
2 or the clinical director. He or she shall be selected based on his or
3 her overall knowledge of the hospital, its programs, and its
4 relationship to its community, and on his or her demonstrated
5 abilities to administer a large facility.

6 (e) The standards for the professional qualifications of a program
7 director shall be established by the Director of State Hospitals for
8 each patient program. The director shall not adopt regulations that
9 prohibit a licensed psychiatrist, psychologist, psychiatric
10 technician, or clinical social worker from employment in a patient
11 program in any professional, administrative, or technical position;
12 provided, however, that the program director of a medical-surgical
13 unit shall be a licensed physician.

14 (f) If the program director is not a physician, a physician shall
15 be available to assume responsibility for all those acts of diagnosis,
16 treatment, or prescribing or ordering of drugs that may only be
17 performed by a licensed physician.

18 ~~SEC. 80.~~

19 *SEC. 79.* Section 4320 of the Welfare and Institutions Code is
20 amended to read:

21 4320. To ensure an adequate supply of licensed psychiatric
22 technicians for state hospitals, the State Department of State
23 Hospitals, to the extent necessary, shall establish in state hospitals
24 a course of study and training equivalent, as determined by the
25 Board of Vocational Nursing and Psychiatric Technicians of the
26 State of California, to the minimum requirements of an accredited
27 program for psychiatric technicians in the state. No unlicensed
28 psychiatric technician trainee shall be permitted to perform the
29 duties of a licensed psychiatric technician as provided by Section
30 4502 of the Business and Professions Code unless the trainee
31 performs the duties pursuant to a plan of supervision approved by
32 the Board of Vocational Nursing and Psychiatric Technicians of
33 the State of California as part of the equivalency trainee program.
34 This section shall not be construed to reduce the effort presently
35 expended by the community college system or private colleges in
36 training psychiatric technicians.

37 ~~SEC. 81.~~

38 *SEC. 80.* Section 4410 of the Welfare and Institutions Code is
39 amended to read:

1 4410. With the approval of the Department of General Services
2 and for use in the furtherance of the work of the State Department
3 of Developmental Services, the director may accept any or all of
4 the following:

5 (a) Grants of interest in real property.

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

9 (c) Gifts of money from public agencies or from persons,
10 organizations, or associations interested in scientific, educational,
11 charitable, or mental health fields.

12 ~~SEC. 82.~~

13 *SEC. 81.* Section 4417 of the Welfare and Institutions Code is
14 amended to read:

15 4417. (a) The State Department of Developmental Services
16 may:

17 (1) Disseminate educational information relating to the
18 prevention, diagnosis and treatment of persons with intellectual
19 disabilities.

20 (2) Upon request, advise all public officers, organizations and
21 agencies interested in the developmental disabilities of the people
22 of the state.

23 (3) Conduct educational and related work that will tend to
24 encourage the development of proper facilities for persons with
25 developmental disabilities throughout the state.

26 (b) The department may organize, establish, and maintain
27 community mental health clinics for the prevention, early diagnosis,
28 and treatment of intellectual disability. These clinics may be
29 maintained only for persons not requiring institutional care, who
30 voluntarily seek the aid of the clinics. These clinics may be
31 maintained at the locations in the communities of the state
32 designated by the director, or at any institution under the
33 jurisdiction of the department designated by the director.

34 (c) The department may establish rules and regulations that are
35 necessary to carry out this section. This section does not authorize
36 any form of compulsory medical or physical examination,
37 treatment, or control of any person.

38 ~~SEC. 83.~~

39 *SEC. 82.* Section 4440 of the Welfare and Institutions Code is
40 amended to read:

1 4440. The department has jurisdiction over the following
2 institutions:

- 3 ~~Agnews State Hospital.~~
- 4 ~~Camarillo State Hospital.~~
- 5 Fairview State Hospital.
- 6 Frank D. Lanterman State Hospital.
- 7 Porterville State Hospital.
- 8 Sonoma State Hospital.
- 9 ~~SEC. 84.~~

10 *SEC. 83.* Section 4681.1 of the Welfare and Institutions Code
11 is amended to read:

12 4681.1. (a) The department shall adopt regulations that specify
13 rates for community care facilities serving persons with
14 developmental disabilities. The implementation of the regulations
15 shall be contingent upon an appropriation in the annual Budget
16 Act for this purpose. These rates shall be calculated on the basis
17 of a cost model designed by the department that ensures that
18 aggregate facility payments support the provision of services to
19 each person in accordance with his or her individual program plan
20 and applicable program requirements. The cost model shall reflect
21 cost elements that shall include, but are not limited to, all of the
22 following:

23 (1) “Basic living needs” include utilities, furnishings, food,
24 supplies, incidental transportation, housekeeping, personal care
25 items, and other items necessary to ensure a quality environment
26 for persons with developmental disabilities. The amount identified
27 for the basic living needs element of the rate shall be calculated
28 as the average projected cost of these items in an economically
29 and efficiently operated community care facility.

30 (2) “Direct care” includes salaries, wages, benefits, and other
31 expenses necessary to supervise or support the person’s functioning
32 in the areas of self-care and daily living skills, physical
33 coordination mobility, and behavioral self-control, choice making,
34 and integration. The amount identified for direct care shall be
35 calculated as the average projected cost of providing the level of
36 service required to meet each person’s functional needs in an
37 economically and efficiently operated community care facility.
38 The direct care portion of the rate shall reflect specific service
39 levels defined by the department on the basis of relative resident
40 need and the individual program plan.

1 (3) “Special services” include specialized training, treatment,
2 supervision, or other services that a person’s individual program
3 plan requires to be provided by the residential facility in addition
4 to the direct care provided under paragraph (2). The amount
5 identified for special services shall be calculated for each individual
6 based on the additional services specified in the person’s individual
7 program plan and the prevailing rates paid for similar services in
8 the area. The special services portion of the rate shall reflect a
9 negotiated agreement between the facility and the regional center
10 in accordance with Section 4648.

11 (4) “Indirect costs” include managerial personnel, facility
12 operation, maintenance and repair, other nondirect care, employee
13 benefits, contracts, training, travel, licenses, taxes, interest,
14 insurance, depreciation, and general administrative expenses. The
15 amount identified for indirect costs shall be calculated as the
16 average projected cost for these expenses in an economically and
17 efficiently operated community care facility.

18 (5) “Property costs” include mortgages, leases, rent, taxes,
19 capital or leasehold improvements, depreciation, and other
20 expenses related to the physical structure. The amount identified
21 for property costs shall be based on the fair rental value of a model
22 facility that is adequately designed, constructed, and maintained
23 to meet the needs of persons with developmental disabilities. The
24 amount identified for property costs shall be calculated as the
25 average projected fair rental value of an economically and
26 efficiently operated community care facility.

27 (b) The cost model shall take into account factors that include,
28 but are not limited to, all of the following:

29 (1) Facility size, as defined by the department on the basis of
30 the number of facility beds licensed by the State Department of
31 Social Services and vendorized by the regional center.

32 (2) Specific geographic areas, as defined by the department on
33 the basis of cost of living and other pertinent economic indicators.

34 (3) Common levels of direct care, as defined by the department
35 on the basis of services specific to an identifiable group of persons
36 as determined through the individual program plan.

37 (4) Positive outcomes, as defined by the department on the basis
38 of increased integration, independence, and productivity at the
39 aggregate facility and individual consumer level.

1 (5) Owner-operated and staff-operated reimbursement, which
2 shall not differ for facilities that are required to comply with the
3 same program requirements.

4 (c) The rates established for individual community care facilities
5 serving persons with developmental disabilities shall reflect all of
6 the model cost elements and rate development factors described
7 in this section. The cost model design shall include a process for
8 updating the cost model elements that address variables, including,
9 but not limited to, all of the following:

- 10 (1) Economic trends in California.
 - 11 (2) New state or federal program requirements.
 - 12 (3) Changes in the state or federal minimum wage.
 - 13 (4) Increases in fees, taxes, or other business costs.
 - 14 (5) Increases in federal supplemental security income/state
15 supplementary program for the aged, blind, and disabled payments.
- 16 (d) Rates established for persons with developmental disabilities
17 who are also dually diagnosed with a mental health disorder may
18 be fixed at a higher rate. The department shall work with the State
19 Department of Health Care Services to establish criteria upon
20 which higher rates may be fixed pursuant to this subdivision. The
21 higher rate for persons with developmental disabilities who are
22 also dually diagnosed with a mental health disorder may be paid
23 when requested by the director of the regional center and approved
24 by the Director of Developmental Services.

25 (e) By January 1, 2001, the department shall prepare proposed
26 regulations to implement the changes outlined in this section. The
27 department may use a private firm to assist in the development of
28 these changes and shall confer with consumers, providers, and
29 other interested parties concerning the proposed regulations. By
30 May 15, 2001, and each year thereafter, the department shall
31 provide the Legislature with annual community care facility rates,
32 including any draft amendments to the regulations as required. By
33 July 1, 2001, and each year thereafter, contingent upon an
34 appropriation in the annual Budget Act for this purpose, the
35 department shall adopt emergency regulations that establish the
36 annual rates for community care facilities serving persons with
37 developmental disabilities for each fiscal year.

38 (f) During the first year of operation under the revised rate
39 model, individual facilities shall be held harmless for any reduction

1 in aggregate facility payments caused solely by the change in
2 reimbursement methodology.

3 ~~SEC. 85.~~

4 *SEC. 84.* Section 5002 of the Welfare and Institutions Code is
5 amended to read:

6 5002. (a) Persons with mental health disorders and persons
7 impaired by chronic alcoholism may no longer be judicially
8 committed.

9 (b) Persons with mental health disorders shall receive services
10 pursuant to this part. Persons impaired by chronic alcoholism may
11 receive services pursuant to this part if they elect to do so pursuant
12 to Article 3 (commencing with Section 5225) of Chapter 2.

13 (c) Persons with epilepsy may no longer be judicially committed.

14 (d) This part shall not be construed to repeal or modify laws
15 relating to the commitment of mentally disordered sex offenders,
16 persons with an intellectual disability, and mentally disordered
17 criminal offenders, except as specifically provided in Section
18 4011.6 of the Penal Code, or as specifically provided in other
19 statutes.

20 ~~SEC. 86.~~

21 *SEC. 85.* Section 5004 of the Welfare and Institutions Code is
22 amended to read:

23 5004. Persons with mental health disorders and persons with
24 developmental disabilities shall receive protection from criminal
25 acts equal to that provided any other resident in this state.

26 ~~SEC. 87.~~

27 *SEC. 86.* Section 5004.5 of the Welfare and Institutions Code
28 is amended to read:

29 5004.5. (a) Notwithstanding any other law, a legal guardian,
30 conservator, or other person who reasonably believes a person
31 with a mental health disorder or developmental disability is the
32 victim of a crime may file a report with an appropriate law
33 enforcement agency. The report shall specify the nature of the
34 alleged offense and any pertinent evidence. Notwithstanding any
35 other law, the information in that report shall not be deemed
36 confidential in any manner. No person shall incur any civil or
37 criminal liability as a result of making a report authorized by this
38 section unless it can be shown that a false report was made and
39 the person knew or should have known that the report was false.

1 (b) Where the district attorney of the county in which the alleged
 2 offense occurred finds, based upon the evidence contained in the
 3 report and any other evidence obtained through regular
 4 investigatory procedures, that a reasonable probability exists that
 5 a crime or public offense has been committed and that the person
 6 with the mental health disorder or developmental disability is the
 7 victim, the district attorney may file a complaint verified on
 8 information and belief.

9 (c) The filing of a report by a legal guardian, conservator, or
 10 any other person pursuant to this section shall not constitute
 11 evidence that a crime or public offense has been committed and
 12 shall not be considered in any manner by the trier of fact.

13 ~~SEC. 88.~~

14 *SEC. 87.* Section 5115 of the Welfare and Institutions Code is
 15 amended to read:

16 5115. The Legislature hereby finds and declares:

17 (a) It is the policy of this state, as declared and established in
 18 this section and in the Lanterman Developmental Disabilities
 19 Services Act, Division 4.5 (commencing with Section 4500), that
 20 persons with mental health disorders or physical disabilities are
 21 entitled to live in normal residential surroundings and should not
 22 be excluded therefrom because of their disability.

23 (b) In order to achieve uniform statewide implementation of the
 24 policies of this section and those of the Lanterman Developmental
 25 Disabilities Services Act, it is necessary to establish the statewide
 26 policy that the use of property for the care of six or fewer persons
 27 with mental health disorders or other disabilities is a residential
 28 use of the property for the purposes of zoning.

29 ~~SEC. 89.~~

30 *SEC. 88.* Section 5116 of the Welfare and Institutions Code is
 31 amended to read:

32 5116. (a) Pursuant to the policy stated in Section 5115, a
 33 state-authorized, certified, or licensed family care home, foster
 34 home, or group home serving six or fewer persons with mental
 35 health disorders or other disabilities or dependent and neglected
 36 children, shall be considered a residential use of property for the
 37 purposes of zoning if the homes provide care on a 24-hour-a-day
 38 basis.

1 (b) These homes shall be a permitted use in all residential zones,
2 including, but not limited to, residential zones for single-family
3 dwellings.

4 ~~SEC. 90.~~

5 *SEC. 89.* Section 5250 of the Welfare and Institutions Code is
6 amended to read:

7 5250. If a person is detained for 72 hours under the provisions
8 of Article 1 (commencing with Section 5150), or under court order
9 for evaluation pursuant to Article 2 (commencing with Section
10 5200) or Article 3 (commencing with Section 5225) and has
11 received an evaluation, he or she may be certified for not more
12 than 14 days of intensive treatment related to the mental health
13 disorder or impairment by chronic alcoholism, under the following
14 conditions:

15 (a) The professional staff of the agency or facility providing
16 evaluation services has analyzed the person's condition and has
17 found the person is, as a result of a mental health disorder or
18 impairment by chronic alcoholism, a danger to others, or to himself
19 or herself, or gravely disabled.

20 (b) The facility providing intensive treatment is designated by
21 the county to provide intensive treatment, and agrees to admit the
22 person. No facility shall be designated to provide intensive
23 treatment unless it complies with the certification review hearing
24 required by this article. The procedures shall be described in the
25 county Short-Doyle plan as required by Section 5651.3.

26 (c) The person has been advised of the need for, but has not
27 been willing or able to accept, treatment on a voluntary basis.

28 (d) (1) Notwithstanding paragraph (1) of subdivision (h) of
29 Section 5008, a person is not "gravely disabled" if that person can
30 survive safely without involuntary detention with the help of
31 responsible family, friends, or others who are both willing and
32 able to help provide for the person's basic personal needs for food,
33 clothing, or shelter.

34 (2) However, unless they specifically indicate in writing their
35 willingness and ability to help, family, friends, or others shall not
36 be considered willing or able to provide this help.

37 (3) The purpose of this subdivision is to avoid the necessity for,
38 and the harmful effects of, requiring family, friends, and others to
39 publicly state, and requiring the certification review officer to
40 publicly find, that no one is willing or able to assist a person with

1 a mental health disorder in providing for the person’s basic needs
2 for food, clothing, or shelter.

3 ~~SEC. 91.~~

4 *SEC. 90.* Section 5301 of the Welfare and Institutions Code is
5 amended to read:

6 5301. (a) At any time during the 14-day intensive treatment
7 period the professional person in charge of the licensed health
8 facility, or his or her designee, may ask the public officer required
9 by Section 5114 to present evidence at proceedings under this
10 article to petition the superior court in the county in which the
11 licensed health facility providing treatment is located for an order
12 requiring the person to undergo an additional period of treatment
13 on the grounds set forth in Section 5300. This petition shall
14 summarize the facts that support the contention that the person
15 falls within the standard set forth in Section 5300. The petition
16 shall be supported by affidavits describing in detail the behavior
17 that indicates that the person falls within the standard set forth in
18 Section 5300.

19 (b) Copies of the petition for postcertification treatment and the
20 affidavits in support thereof shall be served upon the person named
21 in the petition on the same day as they are filed with the clerk of
22 the superior court.

23 (c) The petition shall be in the following form:

24

25 Petition for Postcertification Treatment of a Dangerous
26 Person
27

28 I, _____, (the professional person in charge of the _____ intensive
29 treatment facility) (the designee of _____ the professional person
30 in charge of the _____, treatment facility) in which _____ has been
31 under treatment pursuant to the certification by _____ and _____,
32 hereby petition the court for an order requiring _____ to undergo
33 an additional period of treatment, not to exceed 180 days, pursuant
34 to the provisions of Article 6 (commencing with Section 5300) of
35 Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions
36 Code. This petition is based upon my allegation that (a) _____ has
37 attempted, inflicted, or made a serious threat of substantial physical
38 harm upon the person of another after having been taken into
39 custody, and while in custody, for evaluation, and that, by reason
40 of mental health disorder, presents a demonstrated danger of

1 inflicting substantial physical harm upon others, or that (b) ____
 2 had attempted or inflicted physical harm upon the person of
 3 another, that act having resulted in his or her being taken into
 4 custody, and that he or she presents, as a result of mental health
 5 disorder, a demonstrated danger of inflicting substantial physical
 6 harm upon others, or that (c) ____ had made a serious threat of
 7 substantial physical harm upon the person of another within seven
 8 days of being taken into custody, that threat having at least in part
 9 resulted in his or her being taken into custody, and that he or she
 10 presents, as a result of mental health disorder, a demonstrated
 11 danger of inflicting substantial physical harm upon others.

12 My allegation is based upon the following facts:

13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____

21
 22 This allegation is supported by the accompanying affidavits
 23 signed by _____.

24
 25 Signed _____
 26

27
 28 (d) The courts may receive the affidavits in evidence and may
 29 allow the affidavits to be read to the jury and the contents thereof
 30 considered in rendering a verdict, unless counsel for the person
 31 named in the petition subpoenas the treating professional person.
 32 If the treating professional person is subpoenaed to testify, the
 33 public officer, pursuant to Section 5114, shall be entitled to a
 34 continuance of the hearing or trial.

35 ~~SEC. 92.~~

36 *SEC. 91.* Section 5304 of the Welfare and Institutions Code is
 37 amended to read:

38 5304. (a) The court shall remand a person named in the petition
 39 for postcertification treatment to the custody of the State
 40 Department of State Hospitals or to a licensed health facility

1 designated by the county of residence of that person for a further
2 period of intensive treatment, not to exceed 180 days from the date
3 of court judgment, if the court or jury finds that the person named
4 in the petition for postcertification treatment has done any of the
5 following:

6 (1) Attempted, inflicted, or made a serious threat of substantial
7 physical harm upon the person of another after having been taken
8 into custody, and while in custody, for evaluation and treatment,
9 and who, as a result of mental health disorder, presents a
10 demonstrated danger of inflicting substantial physical harm upon
11 others.

12 (2) Attempted or inflicted physical harm upon the person of
13 another, that act having resulted in his or her being taken into
14 custody, and who, as a result of mental health disorder, presents
15 a demonstrated danger of inflicting substantial physical harm upon
16 others.

17 (3) Expressed a serious threat of substantial physical harm upon
18 the person of another within seven days of being taken into custody,
19 that threat having at least in part resulted in his or her being taken
20 into custody, and who presents, as a result of mental health
21 disorder, a demonstrated danger of inflicting substantial physical
22 harm upon others.

23 (b) The person shall be released from involuntary treatment at
24 the expiration of 180 days unless the public officer, pursuant to
25 Section 5114, files a new petition for postcertification treatment
26 on the grounds that he or she has attempted, inflicted, or made a
27 serious threat of substantial physical harm upon another during
28 his or her period of postcertification treatment, and he or she is a
29 person who by reason of mental health disorder, presents a
30 demonstrated danger of inflicting substantial physical harm upon
31 others. The new petition for postcertification treatment shall be
32 filed in the superior court in which the original petition for
33 postcertification was filed.

34 (c) The county from which the person was remanded shall bear
35 any transportation costs incurred pursuant to this section.

36 ~~SEC. 93.~~

37 *SEC. 92.* Section 5326.5 of the Welfare and Institutions Code
38 is amended to read:

39 5326.5. (a) For purposes of this chapter, “written informed
40 consent” means that a person knowingly and intelligently, without

1 duress or coercion, clearly and explicitly manifests consent to the
2 proposed therapy to the treating physician and in writing on the
3 standard consent form prescribed in Section 5326.4.

4 (b) The physician may urge the proposed treatment as the best
5 one, but may not use, in an effort to gain consent, any reward or
6 threat, express or implied, nor any other form of inducement or
7 coercion, including, but not limited to, placing the patient in a
8 more restricted setting, transfer of the patient to another facility,
9 or loss of the patient's hospital privileges. Nothing in this
10 subdivision shall be construed as in conflict with Section 5326.2.
11 No one shall be denied any benefits for refusing treatment.

12 (c) A person confined shall be deemed incapable of written
13 informed consent if that person cannot understand, or knowingly
14 and intelligently act upon, the information specified in Section
15 5326.2.

16 (d) A person confined shall not be deemed incapable of refusal
17 solely by virtue of being diagnosed as having a mental health
18 disorder.

19 (e) Written informed consent shall be given only after 24 hours
20 have elapsed from the time the information in Section 5326.2 has
21 been given.

22 ~~SEC. 94.~~

23 *SEC. 93.* Section 5340 of the Welfare and Institutions Code is
24 amended to read:

25 5340. It is the intention of the Legislature by enacting this
26 article to provide legal procedures for the custody, evaluation, and
27 treatment of users of controlled substances. The enactment of this
28 article shall not be construed to be evidence that a person subject
29 to its provisions is has a mental health disorder, or evidence that
30 the Legislature considers that those persons have a mental health
31 disorder.

32 ~~SEC. 95.~~

33 *SEC. 94.* Section 5350 of the Welfare and Institutions Code is
34 amended to read:

35 5350. A conservator of the person, of the estate, or of the person
36 and the estate may be appointed for a person who is gravely
37 disabled as a result of a mental health disorder or impairment by
38 chronic alcoholism.

39 The procedure for establishing, administering, and terminating
40 a conservatorship under this chapter shall be the same as that

1 provided in Division 4 (commencing with Section 1400) of the
2 Probate Code, except as follows:

3 (a) A conservator may be appointed for a gravely disabled
4 minor.

5 (b) (1) Appointment of a conservator under this part, including
6 the appointment of a conservator for a person who is gravely
7 disabled, as defined in subparagraph (A) of paragraph (1) of
8 subdivision (h) of Section 5008, shall be subject to the list of
9 priorities in Section 1812 of the Probate Code unless the officer
10 providing conservatorship investigation recommends otherwise
11 to the superior court.

12 (2) In appointing a conservator, as defined in subparagraph (B)
13 of paragraph (1) of subdivision (h) of Section 5008, the court shall
14 consider the purposes of protection of the public and the treatment
15 of the conservatee. Notwithstanding any other provision of this
16 section, the court shall not appoint the proposed conservator if the
17 court determines that appointment of the proposed conservator
18 will not result in adequate protection of the public.

19 (c) No conservatorship of the estate pursuant to this chapter
20 shall be established if a conservatorship or guardianship of the
21 estate exists under the Probate Code. When a gravely disabled
22 person already has a guardian or conservator of the person
23 appointed under the Probate Code, the proceedings under this
24 chapter shall not terminate the prior proceedings but shall be
25 concurrent with and superior thereto. The superior court may
26 appoint the existing guardian or conservator of the person or
27 another person as conservator of the person under this chapter.

28 (d) (1) The person for whom conservatorship is sought shall
29 have the right to demand a court or jury trial on the issue of whether
30 he or she is gravely disabled. Demand for court or jury trial shall
31 be made within five days following the hearing on the
32 conservatorship petition. If the proposed conservatee demands a
33 court or jury trial before the date of the hearing as provided for in
34 Section 5365, the demand shall constitute a waiver of the hearing.

35 (2) Court or jury trial shall commence within 10 days of the
36 date of the demand, except that the court shall continue the trial
37 date for a period not to exceed 15 days upon the request of counsel
38 for the proposed conservatee.

39 (3) This right shall also apply in subsequent proceedings to
40 reestablish conservatorship.

1 (e) (1) Notwithstanding subparagraph (A) of paragraph (1) of
2 subdivision (h) of Section 5008, a person is not “gravely disabled”
3 if that person can survive safely without involuntary detention
4 with the help of responsible family, friends, or others who are both
5 willing and able to help provide for the person’s basic personal
6 needs for food, clothing, or shelter.

7 (2) However, unless they specifically indicate in writing their
8 willingness and ability to help, family, friends, or others shall not
9 be considered willing or able to provide this help.

10 (3) The purpose of this subdivision is to avoid the necessity for,
11 and the harmful effects of, requiring family, friends, and others to
12 publicly state, and requiring the court to publicly find, that no one
13 is willing or able to assist a person with a mental health disorder
14 in providing for the person’s basic needs for food, clothing, or
15 shelter.

16 (4) This subdivision does not apply to a person who is gravely
17 disabled, as defined in subparagraph (B) of paragraph (1) of
18 subdivision (h) of Section 5008.

19 (f) Conservatorship investigation shall be conducted pursuant
20 to this part and shall not be subject to Section 1826 or Chapter 2
21 (commencing with Section 1850) of Part 3 of Division 4 of the
22 Probate Code.

23 (g) Notice of proceedings under this chapter shall be given to
24 a guardian or conservator of the person or estate of the proposed
25 conservatee appointed under the Probate Code.

26 (h) As otherwise provided in this chapter.

27 ~~SEC. 96.~~

28 *SEC. 95.* Section 5366 of the Welfare and Institutions Code is
29 repealed.

30 ~~SEC. 97.~~

31 *SEC. 96.* Section 5400 of the Welfare and Institutions Code is
32 amended to read:

33 5400. (a) The Director of Health Care Services shall administer
34 this part and shall adopt rules, regulations, and standards as
35 necessary. In developing rules, regulations, and standards, the
36 Director of Health Care Services shall consult with the California
37 Mental Health Directors Association, the California Mental Health
38 Planning Council, and the office of the Attorney General. Adoption
39 of these standards, rules, and regulations shall require approval by

1 the California Mental Health Directors Association by majority
2 vote of those present at an official session.

3 (b) Wherever feasible and appropriate, rules, regulations, and
4 standards adopted under this part shall correspond to comparable
5 rules, regulations, and standards adopted under the
6 Bronzan-McCorquodale Act. These corresponding rules,
7 regulations, and standards shall include qualifications for
8 professional personnel.

9 (c) Regulations adopted pursuant to this part may provide
10 standards for services for persons with chronic alcoholism that
11 differ from the standards for services for persons with mental health
12 disorders.

13 ~~SEC. 98.~~

14 *SEC. 97.* Section 5500 of the Welfare and Institutions Code is
15 amended to read:

16 5500. As used in this chapter:

17 (a) “Advocacy” means those activities undertaken on behalf of
18 persons who are receiving or have received mental health services
19 to protect their rights or to secure or upgrade treatment or other
20 services to which they are entitled.

21 (b) “Mental health client” or “client” means a person who is
22 receiving or has received services from a mental health facility,
23 service, or program and who has personally or through a guardian
24 ad litem, entered into an agreement with a county patients’ rights
25 advocate for the provision of advocacy services.

26 (c) “Mental health facilities, services, or programs” means a
27 publicly operated or supported mental health facility or program;
28 a private facility or program licensed or operated for health
29 purposes providing services to persons with mental health
30 disorders; and publicly supported agencies providing other than
31 mental health services to clients with mental health disorders.

32 (d) “Independent of providers of service” means that the
33 advocate has no direct or indirect clinical or administrative
34 responsibility for any recipient of mental health services in any
35 mental health facility, program, or service for which he or she
36 performs advocacy activities.

37 (e) “County patients’ rights advocate” means an advocate
38 appointed, or whose services are contracted for, by a local mental
39 health director.

1 ~~SEC. 99.~~

2 *SEC. 98.* Section 5511 of the Welfare and Institutions Code is
3 amended to read:

4 5511. The Director of State Hospitals or the executive director
5 of each state hospital may contract with independent persons or
6 agencies to perform patients' rights advocacy services in state
7 hospitals.

8 ~~SEC. 100.~~

9 *SEC. 99.* Section 5585.10 of the Welfare and Institutions Code
10 is amended to read:

11 5585.10. This part shall be construed to promote the legislative
12 intent and purposes of this part as follows:

13 (a) To provide prompt evaluation and treatment of minors with
14 mental health disorders, with particular priority given to seriously
15 emotionally disturbed children and adolescents.

16 (b) To safeguard the rights to due process for minors and their
17 families through judicial review.

18 (c) To provide individualized treatment, supervision, and
19 placement services for gravely disabled minors.

20 (d) To prevent severe and long-term mental disabilities among
21 minors through early identification, effective family service
22 interventions, and public education.

23 ~~SEC. 101.~~

24 *SEC. 100.* Section 5600 of the Welfare and Institutions Code
25 is amended to read:

26 5600. (a) This part shall be known and may be cited as the
27 Bronzan-McCorquodale Act. This part is intended to organize and
28 finance community mental health services for persons with mental
29 health disorders in every county through locally administered and
30 locally controlled community mental health programs. It is
31 furthermore intended to better utilize existing resources at both
32 the state and local levels in order to improve the effectiveness of
33 necessary mental health services; to integrate state-operated and
34 community mental health programs into a unified mental health
35 system; to ensure that all mental health professions be appropriately
36 represented and utilized in the mental health programs; to provide
37 a means for participation by local governments in the determination
38 of the need for and the allocation of mental health resources under
39 the jurisdiction of the state; and to provide a means of allocating

1 mental health funds deposited in the Local Revenue Fund equitably
2 among counties according to community needs.

3 (b) With the exception of those referring to Short-Doyle
4 Medi-Cal services, any other provisions of law referring to the
5 Short-Doyle Act shall be construed as referring to the
6 Bronzan-McCorquodale Act.

7 ~~SEC. 102.~~

8 *SEC. 101.* Section 5653 of the Welfare and Institutions Code
9 is amended to read:

10 5653. (a) Optimum use shall be made of appropriate local
11 public and private organizations, community professional
12 personnel, and state agencies. Optimum use shall also be made of
13 federal, state, county, and private funds that may be available for
14 mental health planning.

15 (b) In order that maximum utilization be made of federal and
16 other funds made available to the Department of Rehabilitation,
17 the Department of Rehabilitation may serve as a contractual
18 provider under the provisions of a county plan of vocational
19 rehabilitation services for persons with mental health disorders.

20 ~~SEC. 103.~~

21 *SEC. 102.* Section 5696 of the Welfare and Institutions Code
22 is amended to read:

23 5696. Prior to the opening of a regional facility, the board of
24 directors shall develop written admission criteria, approved by the
25 Department of Corrections and Rehabilitation, Division of Juvenile
26 Facilities, for those minors who are most at risk of entering the
27 adult criminal justice system as offenders who have mental health
28 disorders and are at high risk of committing predatory and violent
29 crimes, including, but not limited to, the following requirements:

30 (a) The minor is at the time of commitment ~~between the ages~~
31 ~~of~~ 12 and 18 years *of age*, he or she has been adjudged to be a
32 ward of the juvenile court pursuant to Section 602, and his or her
33 custody has been placed under the supervision of a probation
34 officer pursuant to Section 727.

35 (b) The ward is seriously emotionally disturbed as is evidenced
36 by a diagnosis from the current edition of the Diagnostic and
37 Statistical Manual of Mental Disorders and evidences behavior
38 inappropriate to the ward's age according to expected
39 developmental norms. Additionally, all of the following must be
40 present:

1 (1) The behavior presents a danger to the community or self
2 and requires intensive supervision and treatment, but the ward is
3 not amenable to other private or public residential treatment
4 programs because his or her behavior requires a secure setting.

5 (2) The symptomology is both severe and frequent.

6 (3) The inappropriate behavior is persistent.

7 ~~SEC. 104.~~

8 *SEC. 103.* Section 5699 of the Welfare and Institutions Code
9 is amended to read:

10 5699. (a) The Legislature finds and declares all of the
11 following:

12 (1) That mental health case management services required for
13 children with serious emotional disturbance are different than these
14 services for clients with mental health disorders described in
15 Chapter 2.5 (commencing with Section 5670).

16 (2) That mental health case management services for children
17 with serious emotional disturbance are not defined in statute.

18 (3) That the development of mental health case management
19 for these children would ensure comprehensive appraisal and
20 utilization of the most appropriate resources within the children's
21 environment, as well as the maintenance and strengthening of
22 family ties.

23 (b) It is the intent of the Legislature to encourage the
24 development of mental health case management services for
25 children with serious emotional disturbance who are separated or
26 at risk of being separated from their families and require mental
27 health treatment, to the extent resources are available. It is further
28 the intent of the Legislature that mental health case management
29 for children with serious emotional disturbance in this state be
30 developed in accordance with the definitions and guidelines
31 contained in this chapter.

32 ~~SEC. 105.~~

33 *SEC. 104.* Section 5714 of the Welfare and Institutions Code
34 is amended to read:

35 5714. To continue county expenditures for legal proceedings
36 involving persons with mental health disorders, the following costs
37 incurred in carrying out Part 1 (commencing with Section 5000)
38 of this division shall not be paid for from funds designated for
39 mental health services.

1 (a) The costs involved in bringing a person in for 72-hour
2 treatment and evaluation.

3 (b) The costs of court proceedings for court-ordered evaluation,
4 including the service of the court order and the apprehension of
5 the person ordered to evaluation when necessary.

6 (c) The costs of court proceedings in cases of appeal from
7 14-day intensive treatment.

8 (d) The cost of legal proceedings in conservatorship, other than
9 the costs of conservatorship investigation as defined by regulations
10 of the State Department of Health Care Services.

11 (e) The court costs in postcertification proceedings.

12 (f) The cost of providing a public defender or other
13 court-appointed attorneys in proceedings for those unable to pay.

14 ~~SEC. 106.~~

15 *SEC. 105.* Section 5802 of the Welfare and Institutions Code
16 is amended to read:

17 5802. (a) The Legislature finds that a mental health system of
18 care for adults and older adults with severe and persistent mental
19 illness is vital for successful management of mental health care in
20 California. Specifically:

21 (1) A comprehensive and coordinated system of care includes
22 community-based treatment, outreach services and other early
23 intervention strategies, case management, and interagency system
24 components required by adults and older adults with severe and
25 persistent mental illness.

26 (2) Mentally ill adults and older adults receive service from
27 many different state and county agencies, particularly criminal
28 justice, employment, housing, public welfare, health, and mental
29 health. In a system of care these agencies collaborate in order to
30 deliver integrated and cost-effective programs.

31 (3) The recovery of persons with severe mental illness and their
32 financial means are important for all levels of government,
33 business, and the community.

34 (4) System of care services that ensure culturally competent
35 care for persons with severe mental illness in the most appropriate,
36 least restrictive level of care are necessary to achieve the desired
37 performance outcomes.

38 (5) Mental health service providers need to increase
39 accountability and further develop methods to measure progress

1 towards client outcome goals and cost-effectiveness as required
2 by a system of care.

3 (b) The Legislature further finds that the adult system of care
4 model, beginning in the 1989–90 fiscal year through the
5 implementation of Chapter 982 of the Statutes of 1988, provides
6 models for adults and older adults with severe mental illness that
7 can meet the performance outcomes required by the Legislature.

8 (c) The Legislature also finds that the system components
9 established in adult systems of care are of value in providing
10 greater benefit to adults and older adults with severe and persistent
11 mental illness at a lower cost in California.

12 (d) Therefore, using the guidelines and principles developed
13 under the demonstration projects implemented under the adult
14 system of care legislation in 1989, it is the intent of the Legislature
15 to accomplish the following:

16 (1) Encourage each county to implement a system of care as
17 described in this legislation for the delivery of mental health
18 services to adults and older adults with serious mental illness.

19 (2) To promote system of care accountability for performance
20 outcomes that enable adults with severe mental illness to reduce
21 symptoms that impair their ability to live independently, work,
22 maintain community supports, care for their children, stay in good
23 health, not abuse drugs or alcohol, and not commit crimes.

24 (3) Maintain funding for the existing pilot adult system of care
25 programs that meet contractual goals as models and technical
26 assistance resources for future expansion of system of care
27 programs to other counties as funding becomes available.

28 (4) Provide funds for counties to establish outreach programs
29 and to provide mental health services and related medications,
30 substance abuse services, supportive housing or other housing
31 assistance, vocational rehabilitation, and other nonmedical
32 programs necessary to stabilize homeless persons who are mentally
33 ill or persons who are mentally ill and at risk of being homeless,
34 get them off the street, and into treatment and recovery, or to
35 provide access to veterans' services that will also provide for
36 treatment and recovery.

37 ~~SEC. 107.~~

38 *SEC. 106.* Section 6000 of the Welfare and Institutions Code
39 is amended to read:

1 6000. (a) Pursuant to applicable rules and regulations
2 established by the State Department of State Hospitals or the State
3 Department of Developmental Services, the medical director of a
4 state hospital may receive in that hospital, as a boarder and patient,
5 a person who is a suitable person for care and treatment in that
6 hospital, upon receipt of a written application for the admission
7 of the person into the hospital for care and treatment made in
8 accordance with the following requirements:

9 (1) In the case of an adult, the application shall be made
10 voluntarily by the person, at a time when he or she is in a condition
11 of mind as to render him or her competent to make it or, if he or
12 she is a conservatee with a conservator of the person or person and
13 estate who was appointed under Chapter 3 (commencing with
14 Section 5350) of Part 1 of Division 5 with the right as specified
15 by court order under Section 5358 to place his or her conservatee
16 in a state hospital, by his or her conservator.

17 (2) In the case of a minor, the application shall be made by his
18 or her parents, or by the parent, guardian, conservator, or other
19 person entitled to his or her custody to a mental hospital as may
20 be designated by the Director of State Hospitals or the Director of
21 Developmental Services to admit minors on voluntary applications.
22 If the minor has a conservator of the person, or the person and the
23 estate, appointed under Chapter 3 (commencing with Section 5350)
24 of Part 1 of Division 5, with the right as specified by court order
25 under Section 5358 to place the conservatee in a state hospital the
26 application for the minor shall be made by his or her conservator.

27 (b) A person received in a state hospital shall be deemed a
28 voluntary patient.

29 (c) Upon the admission of a voluntary patient to a state hospital
30 the medical director shall immediately forward to the office of the
31 State Department of State Hospitals or the State Department of
32 Developmental Services the record of the voluntary patient,
33 showing the name, residence, age, sex, place of birth, occupation,
34 civil condition, date of admission of the patient to the hospital,
35 and other information as required by the rules and regulations of
36 the department.

37 (d) The charges for the care and keeping of a person with a
38 mental health disorder in a state hospital shall be governed by the
39 provisions of Article 4 (commencing with Section 7275) of Chapter

1 3 of Division 7 relating to the charges for the care and keeping of
2 persons with mental health disorders in state hospitals.

3 (e) A voluntary adult patient may leave the hospital or institution
4 at any time by giving notice of his or her desire to leave to a
5 member of the hospital staff and completing normal hospitalization
6 departure procedures. A conservatee may leave in a like manner
7 if notice is given by his or her conservator.

8 (f) A minor who is a voluntary patient may leave the hospital
9 or institution after completing normal hospitalization departure
10 procedures after notice is given to the superintendent or person in
11 charge by the parents, or the parent, guardian, conservator, or other
12 person entitled to the custody of the minor, of their desire to
13 remove him or her from the hospital.

14 (g) No person received into a state hospital, private mental
15 institution, or county psychiatric hospital as a voluntary patient
16 during his or her minority shall be detained therein after he or she
17 reaches the age of majority. A person, after attaining the age of
18 majority, may apply for admission into the hospital or institution
19 for care and treatment in the manner prescribed in this section for
20 applications by an adult.

21 (h) The State Department of State Hospitals or the State
22 Department of Developmental Services shall establish rules and
23 regulations necessary to carry out properly the provisions of this
24 section.

25 (i) Commencing July 1, 2012, the department shall not admit
26 any person to a developmental center pursuant to this section.

27 ~~SEC. 108.~~

28 *SEC. 107.* Section 6002 of the Welfare and Institutions Code
29 is amended to read:

30 6002. (a) The person in charge of a private institution, hospital,
31 or clinic that is conducted for, or includes a department or unit
32 conducted for, the care and treatment of persons who have mental
33 health disorders may receive therein as a voluntary patient a person
34 with a mental health disorder who is a suitable person for care and
35 treatment in the institution, hospital, or clinic who voluntarily
36 makes a written application to the person in charge for admission
37 into the institution, hospital, or clinic and who is, at the time of
38 making the application, mentally competent to make the
39 application. A conservatee, with a conservator of the person, or
40 person and estate, appointed under Chapter 3 (commencing with

1 Section 5350) of Part 1 of Division 5, with the right as specified
2 by court order under Section 5358 to place his conservatee, may
3 be admitted upon written application by his or her conservator.

4 (b) After the admission of a voluntary patient to a private
5 institution, hospital, or clinic, the person in charge shall forward
6 to the office of the State Department of State Hospitals a record
7 of the voluntary patient showing all information required by rule
8 by the department.

9 (c) A voluntary adult patient may leave the hospital, clinic, or
10 institution at any time by giving notice of his or her desire to leave
11 to a member of the hospital staff and completing normal
12 hospitalization departure procedures. A conservatee may leave in
13 a like manner if notice is given by his or her conservator.

14 ~~SEC. 109.~~

15 *SEC. 108.* Section 6002.10 of the Welfare and Institutions
16 Code is amended to read:

17 6002.10. A facility licensed under Chapter 2 (commencing
18 with Section 1250) of Division 2 of the Health and Safety Code,
19 to provide inpatient psychiatric treatment, excluding state hospitals
20 and county hospitals, shall establish admission procedures for
21 minors who meet the following criteria:

22 (a) The minor is 14 years of age or older, and is under 18 years
23 of age.

24 (b) The minor is not legally emancipated.

25 (c) The minor is not detained under Sections 5585.50 and
26 5585.53.

27 (d) The minor is not voluntarily committed pursuant to Section
28 6552.

29 (e) The minor has not been declared a dependent of the juvenile
30 court pursuant to Section 300 or a ward of the court pursuant to
31 Section 602.

32 (f) The minor's admitting diagnosis or condition is either of the
33 following:

34 (1) A mental health disorder only. Although resistance to
35 treatment may be a product of a mental health disorder, the
36 resistance shall not, in itself, imply the presence of a mental health
37 disorder or constitute evidence that the minor meets the admission
38 criteria. A minor shall not be considered to have a mental health
39 disorder solely for exhibiting behaviors specified under Sections
40 601 and 602.

1 (2) A mental health disorder and a substance abuse disorder.

2 ~~SEC. 110.~~

3 *SEC. 109.* Section 6250 of the Welfare and Institutions Code
4 is amended to read:

5 6250. (a) As used in this part, “a person subject to judicial
6 commitment” means a person who may be judicially committed
7 under this part as a mentally disordered sex offender pursuant to
8 Article 1 (commencing with Section 6331), a sexually violent
9 predator pursuant to Article 4 (commencing with Section 6600),
10 or a person with intellectual disabilities pursuant to Article 2
11 (commencing with Section 6500) of Chapter 2.

12 (b) Nothing in this part shall be held to change or interfere with
13 the provisions of the Penal Code and other laws relating to persons
14 with mental health disorders who are charged with a crime or to
15 persons who are found to be not guilty by reason of insanity.

16 (c) This part shall be liberally construed so that, as far as
17 possible and consistent with the rights of persons subject to
18 commitment, those persons shall be treated, not as criminals, but
19 as sick persons.

20 ~~SEC. 111.~~

21 *SEC. 110.* Section 6254 of the Welfare and Institutions Code
22 is amended to read:

23 6254. Wherever provision is made in this code for an order of
24 commitment by a superior court, the order of commitment shall
25 be in substantially the following form:

26
27 In the Superior Court of the State of California
28 For the County of ____

29
30 _____
31 The People
32 For the Best Interest and Protection of
33 _____
34 as a _____,
35
36 and Concerning
37 _____ and
38 _____, Respondents
39 _____
40 _____

} Order for Care,
Hospitalization,
or Commitment

1 The petition dated _____, alleging that _____, having been presented
2 to this court on the _____ day of _____, 20__, and an order of detention
3 issued thereon by a judge of the superior court of this county, and a return of
4 the said order:

5 And it further appearing that the provisions of Sections 6250 to 6254,
6 inclusive, of the Welfare and Institutions Code have been complied with;

7 And it further appearing that Dr. _____ and Dr. _____, two regularly
8 appointed and qualified medical examiners of this county, have made a
9 personal examination of the alleged _____, and have made and signed the
10 certificate of the medical examiners, which certificate is attached hereto and
11 made a part hereof;

12 Now therefore, after examination and certificate made as aforesaid, the court
13 is satisfied and believes that _____ is a _____ and is so _____.

14 It is ordered, adjudged, and decreed:

15 That _____ is a _____ and that _he

16 * (a) Be cared for and detained in _____, a county psychiatric hospital,
17 a community mental health service, or a licensed hospital for the care of
18 persons with mental health disorders until the further order of the court, or

19 * (b) Be cared for at _____, until the further order of the court, or

20 * (c) Be committed to the State Department of State Hospitals for placement
21 in a state hospital, or

22 * (d) Be committed to a facility of the Department of Veterans Affairs or
23 other agency of the United States, to wit: _____ at _____.

24 It is further ordered and directed that _____ of this county, take, convey,
25 and deliver _____ to the proper authorities of the hospital or establishment
26 designated herein to be cared for as provided by law.

27 Dated this _____ day of _____, 20__.

28 _____
29 Judge of the Superior Court

30 * Strike out when not applicable.

31
32 ~~SEC. 112.~~

33 *SEC. 111.* Section 6551 of the Welfare and Institutions Code
34 is amended to read:

35 6551. (a) If the court is in doubt as to whether the person has
36 a mental health disorder or an intellectual disability, the court shall
37 order the person to be taken to a facility designated by the county
38 and approved by the State Department of Health Care Services as
39 a facility for 72-hour treatment and evaluation. Thereupon, Article
40 1 (commencing with Section 5150) of Chapter 2 of Part 1 of

1 Division 5 applies, except that the professional person in charge
2 of the facility shall make a written report to the court concerning
3 the results of the evaluation of the person's mental condition. If
4 the professional person in charge of the facility finds the person
5 is, as a result of a mental health disorder, in need of intensive
6 treatment, the person may be certified for not more than 14 days
7 of involuntary intensive treatment if the conditions set forth in
8 subdivision (c) of Section 5250 and subdivision (b) of Section
9 5260 are complied with. Thereupon, Article 4 (commencing with
10 Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to
11 the person. The person may be detained pursuant to Article 4.5
12 (commencing with Section 5260), or Article 4.7 (commencing
13 with Section 5270.10), or Article 6 (commencing with Section
14 5300) of Part 1 of Division 5 if that article applies.

15 (b) If the professional person in charge of the facility finds that
16 the person has an intellectual disability, the juvenile court may
17 direct the filing in any other court of a petition for the commitment
18 of a minor as an intellectually disabled person to the State
19 Department of Developmental Services for placement in a state
20 hospital. In that case, the juvenile court shall transmit to the court
21 in which the petition is filed a copy of the report of the professional
22 person in charge of the facility in which the minor was placed for
23 observation. The court in which the petition for commitment is
24 filed may accept the report of the professional person in lieu of
25 the appointment, or subpoenaing, and testimony of other expert
26 witnesses appointed by the court, if the laws applicable to the
27 commitment proceedings provide for the appointment by court of
28 medical or other expert witnesses or may consider the report as
29 evidence in addition to the testimony of medical or other expert
30 witnesses.

31 (c) If the professional person in charge of the facility for 72-hour
32 evaluation and treatment reports to the juvenile court that the minor
33 is not affected with a mental health disorder requiring intensive
34 treatment or an intellectual disability, the professional person in
35 charge of the facility shall return the minor to the juvenile court
36 on or before the expiration of the 72-hour period and the court
37 shall proceed with the case in accordance with the Juvenile Court
38 Law.

39 (d) Expenditure for the evaluation or intensive treatment of a
40 minor under this section shall be considered an expenditure made

1 under Part 2 (commencing with Section 5600) of Division 5 and
2 shall be reimbursed by the state as are other local expenditures
3 pursuant to that part.

4 (e) The jurisdiction of the juvenile court over the minor shall
5 be suspended during the time that the minor is subject to the
6 jurisdiction of the court in which the petition for postcertification
7 treatment of an imminently dangerous person or the petition for
8 commitment of an intellectually disabled person is filed or under
9 remand for 90 days for intensive treatment or commitment ordered
10 by the court.

11 ~~SEC. 113.~~

12 *SEC. 112.* Section 6825 of the Welfare and Institutions Code
13 is amended to read:

14 6825. The procedures for handling persons with mental health
15 disorders who are charged with the commission of public offenses
16 are provided for in Section 1026 of the Penal Code and in Chapter
17 6 (commencing with Section 1365), Title 10, Part 2 of the Penal
18 Code.

19 ~~SEC. 114.~~

20 *SEC. 113.* Section 7100 of the Welfare and Institutions Code
21 is amended to read:

22 7100. (a) The board of supervisors of each county may
23 maintain in the county hospital or in any other hospital situated
24 within or without the county or in any other psychiatric health
25 facility situated within or without the county, suitable facilities
26 and nonhospital or hospital service for the detention, supervision,
27 care, and treatment of persons who have a mental health disorder
28 or a developmental disability, or who are alleged to be such.

29 (b) The county may contract with public or private hospitals for
30 those facilities and hospital service when they are not suitably
31 available in an institution, psychiatric facility, or establishment
32 maintained or operated by the county.

33 (c) The facilities and services for persons who have, or are
34 alleged to have, a mental health disorder shall be subject to the
35 approval of the State Department of Health Care Services, and the
36 facilities and services for persons who have, or are alleged to have,
37 a developmental disability shall be subject to the approval of the
38 State Department of Developmental Services. The professional
39 person having charge and control of the hospital or psychiatric
40 health facility shall allow the department whose approval is

1 required to make investigations thereof as it deems necessary at
2 any time.

3 (d) Nothing in this chapter means that persons who have a
4 mental health disorder or a developmental disability may not be
5 detained, supervised, cared for, or treated, subject to the right of
6 inquiry or investigation by the department, in their own homes, or
7 the homes of their relatives or friends, or in a licensed
8 establishment.

9 ~~SEC. 115.~~

10 *SEC. 114.* Section 7200 of the Welfare and Institutions Code
11 is amended to read:

12 7200. There are in the state the following state hospitals for
13 the care, treatment, and education of persons with mental health
14 disorders:

15 (a) Metropolitan State Hospital near the City of Norwalk, Los
16 Angeles County.

17 (b) Atascadero State Hospital near the City of Atascadero, San
18 Luis Obispo County.

19 (c) Napa State Hospital near the City of Napa, Napa County.

20 (d) Patton State Hospital near the City of San Bernardino, San
21 Bernardino County.

22 (e) Coalinga State Hospital near the City of Coalinga, Fresno
23 County.

24 ~~SEC. 116.~~

25 *SEC. 115.* Section 7201 of the Welfare and Institutions Code
26 is amended to read:

27 7201. All of the institutions under the jurisdiction of the State
28 Department of State Hospitals shall be governed by the uniform
29 rules and regulations of the State Department of State Hospitals
30 and all of the provisions of Part 2 (commencing with Section 4100)
31 of Division 4 of this code on the administration of state institutions
32 serving persons with mental health disorders shall apply to the
33 conduct and management of the state hospitals. All of the
34 institutions under the jurisdiction of the State Department of
35 Developmental Services shall be governed by the uniform rules
36 and regulations of the State Department of Developmental Services
37 and, except as provided in Chapter 4 (commencing with Section
38 7500) of this division, all of the provisions of Part 2 (commencing
39 with Section 4440) of Division 4.1 of this code on the
40 administration of state institutions serving persons with

1 developmental disabilities shall apply to the conduct and
2 management of the state hospitals for persons with developmental
3 disabilities.

4 ~~SEC. 117.~~

5 *SEC. 116.* Section 7226 of the Welfare and Institutions Code
6 is amended to read:

7 7226. The State Department of State Hospitals may admit to
8 any state hospital, if there is room therein, any soldier or sailor in
9 the service of the United States who has a mental health disorder
10 on terms agreed upon between the department and the properly
11 authorized agents, officers, or representatives of the United States
12 government.

13 ~~SEC. 118.~~

14 *SEC. 117.* Section 7227 of the Welfare and Institutions Code
15 is amended to read:

16 7227. Prisoners who have mental health disorders and who are
17 in the state prisons shall be admitted to the state hospitals in
18 accordance with the provisions of the Penal Code.

19 ~~SEC. 119.~~

20 *SEC. 118.* Section 7275 of the Welfare and Institutions Code
21 is amended to read:

22 7275. (a) The husband, wife, father, mother, or children of a
23 patient in a state hospital, the estates of these persons, and the
24 guardian or conservator and administrator of the estate of the
25 patient shall cause him or her to be properly and suitably cared for
26 and maintained, and shall pay the costs and charges for
27 transportation to a state institution. The husband, wife, father,
28 mother, or children of a patient in a state hospital and the
29 administrators of their estates, and the estate of the person shall
30 be liable for his or her care, support, and maintenance in a state
31 institution of which he or she is a patient. The liability of these
32 persons and estates shall be a joint and several liability, and the
33 liability shall exist whether the person has become a patient of a
34 state institution pursuant to the provisions of this code or pursuant
35 to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of
36 the Penal Code.

37 (b) This section does not impose liability for the care of persons
38 with intellectual disabilities in state hospitals.

1 ~~SEC. 120.~~

2 *SEC. 119.* Section 7276 of the Welfare and Institutions Code
3 is amended to read:

4 7276. (a) The charge for the care and treatment of all persons
5 who have mental health disorders at state hospitals for whom there
6 is liability to pay therefor shall be determined pursuant to Section
7 4025. The Director of State Hospitals may reduce, cancel, or remit
8 the amount to be paid by the estate or the relatives, as the case may
9 be, liable for the care and treatment of any person who is an
10 alcoholic or who has a mental health disorder and who is a patient
11 at a state hospital, on satisfactory proof that the estate or relatives,
12 as the case may be, are unable to pay the cost of that care and
13 treatment or that the amount is uncollectible. Where there has been
14 a payment under this section, and the payment or any part thereof
15 is refunded because of the death, leave of absence, or discharge
16 of a patient of the hospital, that amount shall be paid by the hospital
17 or the State Department of State Hospitals to the person who made
18 the payment upon demand, and in the statement to the Controller
19 the amounts refunded shall be itemized and the aggregate deducted
20 from the amount to be paid into the State Treasury, as provided
21 by law. If a person dies at any time while his or her estate is liable
22 for his or her care and treatment at a state hospital, the claim for
23 the amount due may be presented to the executor or administrator
24 of his or her estate, and paid as a preferred claim, with the same
25 rank in order of preference, as claims for expenses of last illness.

26 (b) If the Director of State Hospitals delegates to the county the
27 responsibility for determining the ability of a minor child and his
28 or her parents to pay for state hospital services, the requirements
29 of Sections 5710 and 7275.1 and the policies and procedures
30 established and maintained by the director, including those relating
31 to the collection and accounting of revenue, shall be followed by
32 each county to which that responsibility is delegated.

33 ~~SEC. 121.~~

34 *SEC. 120.* Section 7277 of the Welfare and Institutions Code
35 is amended to read:

36 7277. The State Department of State Hospitals shall collect all
37 the costs and charges mentioned in Section 7275, and shall
38 determine, pursuant to Section 7275, and collect the charges for
39 care and treatment rendered persons in community mental health
40 clinics maintained by the department and may take action necessary

1 to effect their collection within or without the state. The Director
2 of State Hospitals may, however, at his or her discretion, refuse
3 to accept payment of charges for the care and treatment in a state
4 hospital of person with a mental health disorder or who has chronic
5 alcoholism and who is eligible for deportation by the federal
6 immigration authorities.

7 ~~SEC. 122.~~

8 *SEC. 121.* Section 7278 of the Welfare and Institutions Code
9 is amended to read:

10 7278. The State Department of State Hospitals shall, following
11 the admission of a patient into a state hospital, cause an
12 investigation to be made to determine the moneys, property, or
13 interest in property, if any, the patient has, and whether he or she
14 has a duly appointed and acting guardian to protect his or her
15 property and his or her property interests. The department shall
16 also make an investigation to determine whether the patient has
17 any relative or relatives responsible under the provisions of this
18 code for the payment of the costs of transportation and
19 maintenance, and shall ascertain the financial condition of the
20 relative or relatives to determine whether, in each case, the relative
21 or relatives are in fact financially able to pay the charges. All
22 reports in connection with the investigation, together with the
23 findings of the department, shall be records of the department, and
24 may be inspected by interested relatives, their agents, or
25 representatives at any time upon application.

26 ~~SEC. 123.~~

27 *SEC. 122.* Section 7280 of the Welfare and Institutions Code
28 is amended to read:

29 7280. The guardian or conservator of the estate of a person
30 who is confined in a state hospital may, from time to time, pay to
31 the state hospital moneys out of the estate to be used for the future
32 personal needs of the person while in a state hospital and for burial
33 expenses. These sums shall be credited to the patient's personal
34 deposit account, subject to the provision relating to the deposit of
35 funds in the patients' personal deposit fund.

36 ~~SEC. 124.~~

37 *SEC. 123.* Section 7283 of the Welfare and Institutions Code
38 is amended to read:

39 7283. All moneys collected by the State Department of State
40 Hospitals and the State Department of Developmental Services

1 for the cost and charges of transportation of persons to state
2 hospitals shall be remitted by the department to the State Treasury
3 for credit to, and shall become a part of, the current appropriation
4 from the General Fund of the state for the transportation of persons
5 with mental health disorders, correctional school, or other state
6 hospital patients and shall be available for expenditure for those
7 purposes. In lieu of exact calculations of moneys collected for
8 transportation charges the department may determine the amount
9 of collections by the use of those estimates or formula as approved
10 by the Department of Finance.

11 ~~SEC. 125.~~

12 *SEC. 124.* Section 7284 of the Welfare and Institutions Code
13 is amended to read:

14 7284. (a) If a person who lacks legal capacity to make
15 decisions, who has no guardian or conservator of the estate, and
16 who has been admitted or committed to the State Department of
17 State Hospitals for placement in a state hospital, is the owner of
18 any property, the State Department of State Hospitals, acting
19 through its designated officer, may apply to the superior court of
20 the proper county for its appointment as guardian or conservator
21 of the person's estate.

22 (b) For the purposes of this section, the State Department of
23 State Hospitals is hereby made a corporation and may act as
24 executor, administrator, guardian or conservator of estates,
25 assignee, receiver, depository, or trustee, under appointment of
26 any court or by authority of any law of this state, and may transact
27 business in that capacity in like manner as an individual, and for
28 this purpose may sue and be sued in any of the courts of this state.

29 (c) If a person admitted or committed to the State Department
30 of State Hospitals dies, leaving an estate, and having no relatives
31 at the time residing within this state, the State Department of State
32 Hospitals may apply for letters of administration of his or her estate
33 and, in the discretion of the court, letters of administration may be
34 issued to the department. When the State Department of State
35 Hospitals is appointed as guardian, conservator, or administrator,
36 the department shall be appointed as guardian, conservator, or
37 administrator without bond. The officer designated by the
38 department shall be required to give a surety bond in an amount
39 deemed necessary from time to time by the director, but in no event
40 shall the initial bond be less than ten thousand dollars (\$10,000),

1 which bond shall be for the joint benefit of the several estates and
2 the State of California. The State Department of State Hospitals
3 shall receive any reasonable fees for its services as the guardian,
4 conservator, or administrator as the court allows. The fees paid to
5 the State Department of State Hospitals for its services as guardian,
6 conservator, or administrator of the various estates may be used
7 as a trust account from which may be drawn expenses for filing
8 fees, bond premiums, court costs, and other expenses required in
9 the administration of the various estates. Whenever the balance
10 remaining in the trust fund account shall exceed a sum deemed
11 necessary by the department for the payment of expenses, the
12 excess shall be paid quarterly by the department into the State
13 Treasury to the credit of the General Fund.

14 ~~SEC. 126.~~

15 *SEC. 125.* Section 7294 of the Welfare and Institutions Code
16 is amended to read:

17 7294. (a) A person who has been committed as a delinquent
18 with a mental health disorder may be paroled or granted a leave
19 of absence by the medical superintendent of the institution wherein
20 the person is confined whenever the medical superintendent is of
21 the opinion that the person has improved to such an extent that he
22 or she is no longer a menace to the health and safety of others or
23 that the person will receive benefit from the parole or leave of
24 absence, and after the medical superintendent and the Director of
25 State Hospitals have certified the opinion to the committing court.

26 (b) If, within 30 days after the receipt of the certification, the
27 committing court orders the return of the person, the person shall
28 be returned forthwith to await further action of the court. If, within
29 30 days after the receipt of the certification, the committing court
30 does not order the return of the person to await the further action
31 of the court, the medical superintendent may thereafter parole the
32 person under the terms and conditions specified by the
33 superintendent. A paroled inmate may, at any time during the
34 parole period, be recalled to the institution. The period of parole
35 shall in no case be less than five years, and shall be on the same
36 general rules and conditions as parole of persons with mental health
37 disorders.

38 (c) When a person has been paroled for five consecutive years,
39 if in the opinion of the medical superintendent and the Director of
40 State Hospitals the person is no longer a menace to the health,

1 person, or property of himself or herself or of any other person,
2 the medical superintendent, subject to the approval of the Director
3 of State Hospitals, may discharge the person. The committing court
4 shall be furnished with a certified copy of the discharge and shall
5 thereupon dispose of the court case as it deems necessary and
6 proper.

7 (d) When, in the opinion of the medical superintendent, a person
8 previously committed as a delinquent with a mental health disorder
9 will not benefit by further care and treatment under any facilities
10 of the department and should be returned to the jurisdiction of the
11 court, the superintendent of the institution and the Director of State
12 Hospitals shall certify the opinion to the committing court,
13 including therein a report, diagnosis, and recommendation
14 concerning the person's future care, supervision, or treatment.
15 Upon receipt of the certification, the committing court shall
16 forthwith order the return of the person to the court. The person
17 shall be entitled to a court hearing and to present witnesses in his
18 or her own behalf, to be represented by counsel and to
19 cross-examine any witness who testifies against him or her. After
20 considering all the evidence before it, the court may make a further
21 order or commitment with reference to the person as may be
22 authorized by law.

23 ~~SEC. 127.~~

24 *SEC. 126.* Section 7300 of the Welfare and Institutions Code
25 is amended to read:

26 7300. (a) It shall be the policy of the department to make
27 available to all persons admitted to a state hospital prior to July 1,
28 1969, and to all persons judicially committed or remanded to its
29 jurisdiction all of the facilities under the control of the department.
30 Whenever, in the opinion of the Director of State Hospitals, it
31 appears that a person admitted prior to July 1, 1969, or that a person
32 judicially committed or remanded to the State Department of State
33 Hospitals for placement in an institution would be benefited by a
34 transfer from that institution to another institution under the
35 department's jurisdiction, the director may cause the transfer of
36 the patient. Preference shall be given in any such transfer to an
37 institution in an adjoining rather than a remote district.

38 (b) However, before an inmate of a correctional school may be
39 transferred to a state hospital, he or she shall first be returned to a
40 court of competent jurisdiction, and, if subject to commitment,

1 after hearing, may be committed to a state hospital in accordance
2 with law.

3 (c) The expense of the transfers is chargeable to the state, and
4 the bills for the same, when approved by the Director of State
5 Hospitals, shall be paid by the Treasurer on the warrant of the
6 Controller, out of moneys provided for the care or support of the
7 patients or out of the moneys provided for the support of the
8 department, in the discretion of the department.

9 ~~SEC. 128.~~

10 *SEC. 127.* Section 7329 of the Welfare and Institutions Code
11 is amended to read:

12 7329. (a) When a patient, who is subject to judicial
13 commitment, has escaped from a public mental hospital in a state
14 of the United States other than California and is present in this
15 state, a peace officer, health officer, county physician, or assistant
16 county physician may take the person into custody within five
17 years after the escape. The person may be admitted and detained
18 in the quarters provided in a county hospital or state hospital upon
19 application of the peace officer, health officer, county physician,
20 or assistant county physician. The application shall be in writing
21 and shall state the identity of the person, the name and place of
22 the institution from which he or she escaped and the approximate
23 date of the escape, and the fact that the person has been
24 apprehended pursuant to this section.

25 (b) As soon as possible after the person is apprehended, the
26 district attorney of the county in which the person is present shall
27 file a petition in the superior court alleging the facts of the escape,
28 and requesting an immediate hearing on the question of whether
29 the person has escaped from a public mental hospital in another
30 state within five years prior to his or her apprehension. The hearing
31 shall be held within three days after the day on which the person
32 was taken into custody. If the court finds that the person has not
33 escaped from such a hospital within five years prior to his or her
34 apprehension, he or she shall be released immediately.

35 (c) If the court finds that the person did escape from a public
36 mental hospital in another state within five years prior to his or
37 her apprehension, the superintendent or physician in charge of the
38 quarters provided in the county hospital or state hospital may care
39 for and treat the person, and the district attorney of the county in
40 which the person is present immediately shall present to a judge

1 of the superior court a petition asking that the person be judicially
2 committed to a state hospital in this state. The hearing on the
3 petition shall be held within seven days after the court's
4 determination in the original hearing that the person did escape
5 from a public mental hospital in another state within five years
6 prior to his apprehension. Proceedings shall thereafter be conducted
7 as on a petition for judicial commitment of the particular type of
8 person subject to judicial commitment. If the court finds that the
9 person is subject to judicial commitment it shall order him or her
10 judicially committed to a state hospital in this state; otherwise, it
11 shall order him or her to be released. It shall be the duty of the
12 superintendent of the state hospital to accept custody of the person,
13 if he or she has been determined to be subject to judicial
14 commitment. The State Department of State Hospitals will
15 promptly cause the person to be returned to the institution from
16 which he or she escaped if the authorities in charge of the
17 institution agree to accept him or her. If the authorities refuse to
18 accept the person, the superintendent of the state hospital in which
19 the person is confined shall continue to care for and treat the person
20 in the same manner as any other person judicially committed to
21 the hospital as having a mental health disorder.

22 ~~SEC. 129.~~

23 *SEC. 128.* Section 7352 of the Welfare and Institutions Code
24 is amended to read:

25 7352. (a) The medical director of a state hospital may grant a
26 leave of absence to a judicially committed patient, except as
27 provided in Section 7350, under general conditions prescribed by
28 the State Department of State Hospitals.

29 (b) The State Department of State Hospitals may continue to
30 render services to patients placed on leave of absence prior to July
31 1, 1969, to the extent those services are authorized by law in effect
32 immediately preceding July 1, 1969.

33 ~~SEC. 130.~~

34 *SEC. 129.* Section 7354 of the Welfare and Institutions Code
35 is amended to read:

36 7354. (a) A person with a mental health disorder may be
37 granted care in a licensed institution or other suitable licensed or
38 certified facility. The State Department of State Hospitals may pay
39 for that care at a rate not exceeding the average cost of care of
40 patients in the state hospitals, as determined by the Director of

1 State Hospitals. The payments shall be made from funds available
2 to the State Department of State Hospitals for that purpose.

3 (b) The State Department of State Hospitals may make payments
4 for services for patients who have mental health disorders in private
5 facilities released or discharged from state hospitals on the basis
6 of reimbursement for reasonable cost, using the same standards
7 and rates consistent with those established by the State Department
8 of Health Care Services for similar types of care. The payments
9 shall be made within the limitation of funds appropriated to the
10 State Department of State Hospitals for that purpose.

11 (c) No payments for care or services of a patient with a mental
12 health disorder shall be made by the State Department of State
13 Hospitals pursuant to this section unless the care or services are
14 requested by the local director of the mental health services of the
15 county of the patient’s residence, unless provision for the care or
16 services is made in the county Short-Doyle plan of the county
17 under which the county shall reimburse the department for 10
18 percent of the amount expended by the department, exclusive of
19 the portion of the cost that is provided by the federal government.

20 (d) The provision for the 10-percent county share shall be
21 inapplicable with respect to a county with a population of under
22 100,000 persons that has not elected to participate financially in
23 providing services under Division 5 (commencing with Section
24 5000) in accordance with Section 5709.5.

25 ~~SEC. 131.~~

26 *SEC. 130.* Section 7357 of the Welfare and Institutions Code
27 is amended to read:

28 7357. The superintendent of a state hospital, on filing his or
29 her written certificate with the Director of State Hospitals, may
30 discharge a patient who, in his or her judgment, has recovered or
31 did not, at time of admission, have a mental health disorder.

32 ~~SEC. 132.~~

33 *SEC. 131.* Section 7362 of the Welfare and Institutions Code
34 is amended to read:

35 7362. (a) The medical superintendent of a state hospital, on
36 filing his or her written certificate with the Director of State
37 Hospitals, may on his or her own motion, and shall on the order
38 of the State Department of State Hospitals, discharge a patient who
39 comes within any of the following descriptions:

- 40 (1) Who is not a proper case for treatment therein.

1 (2) Who has a developmental disability or a chronic harmless
2 mental health disorder.

3 (b) The person, when discharged, shall be returned to the county
4 of his or her residence at the expense of the county, and delivered
5 to the sheriff or other appropriate county official to be designated
6 by the board of supervisors, for delivery to the official or agency
7 in that county charged with the responsibility for the person. Should
8 the person be a poor and indigent person, he or she shall be cared
9 for by the county as are other indigent poor.

10 (c) No person who has been discharged from a state hospital
11 under the provisions of paragraph (2) of subdivision (a) shall be
12 again committed to a state hospital unless he or she is subject to
13 judicial commitment.

14 ~~SEC. 133.~~

15 *SEC. 132.* Section 7500 of the Welfare and Institutions Code
16 is amended to read:

17 7500. There are established in the state the following state
18 hospitals for the care and treatment of persons with developmental
19 disabilities:

20 (a) Sonoma State Hospital, in Sonoma County.

21 (b) Lanterman State Hospital, in Los Angeles County.

22 (c) Porterville State Hospital, in Tulare County.

23 (d) Fairview State Hospital, in Orange County.

24 ~~SEC. 134.~~

25 *SEC. 133.* Section 7501.5 of the Welfare and Institutions Code
26 is amended to read:

27 7501.5. (a) The Department of General Services, in cooperation
28 with the State Department of Developmental Services and the State
29 Department of State Hospitals, may lease property within the
30 boundaries of Camarillo State Hospital described in subdivision
31 (c) to Ventura County, which may sublet the property to one or
32 more responsible organizations selected by Ventura County for
33 the purposes of constructing housing or operating residential care
34 services, or both, designed to meet the identified treatment and
35 rehabilitation needs of persons with mental health disorders from
36 Ventura County. The lease between the state and Ventura County
37 shall contain a provision that requires that the lease shall terminate
38 and that full title, possession, and control of the property shall
39 return to the state if permits have not been issued for construction
40 of the housing prior to January 1, 1995. The sublease between

1 Ventura County and the responsible bidder shall contain a provision
2 that requires that permits for construction of the housing be issued
3 prior to January 1, 1995, and shall contain a provision that requires
4 that the sublease shall terminate and full title, possession, and
5 control of the property shall return to the state if permits have not
6 been issued for construction of the housing prior to January 1,
7 1995.

8 (b) In selecting a service provider pursuant to subdivision (a),
9 Ventura County shall only consider a sublease with organizations
10 that comply with subdivision (b) of Section 5705 and Section 523
11 of Title 9 of the California Code of Regulations.

12 (c) (1) The property consists of a 15 plus acre portion of a 58.5
13 acre parcel at Camarillo State Hospital that has previously been
14 declared surplus by the State Department of Developmental
15 Services. The acreage is on Lewis Road at the entrance to
16 Camarillo State Hospital. Specific metes and bounds shall be
17 established for the 15 plus acre parcel prior to the actual lease of
18 the property.

19 (2) The Department of General Services may enter into a lease
20 at less than fair market value. The department is authorized to lease
21 the parcel for not less than ~~40~~, 40 and not more than ~~99~~, 99 years.

22 (d) If there is available space, persons who have mental health
23 disorders from Los Angeles, San Luis Obispo, and Santa Barbara
24 Counties may be eligible for placement at this center if an
25 agreement to that effect is entered into between those counties and
26 Ventura County. The agreement shall specify that Los Angeles,
27 San Luis Obispo, and Santa Barbara Counties shall retain
28 responsibility for monitoring and maintenance of persons with
29 mental health disorders who are placed through those agreements
30 and for payment of costs incurred or services rendered by Ventura
31 County.

32 ~~SEC. 135.~~

33 *SEC. 134.* Any section of any act enacted by the Legislature
34 during the 2014 calendar year that takes effect on or before January
35 1, 2015, and that amends, amends and renumbers, adds, repeals
36 and adds, or repeals a section that is amended or repealed by this
37 act shall prevail over this act, whether that act is enacted prior to,
38 or subsequent to, the enactment of this act. The repeal of any
39 section by this act shall not become operative if any section of any
40 other act that is enacted by the Legislature during the 2014 calendar

- 1 year and takes effect on or before January 1, 2015, amends, amends
- 2 and renumbers, adds, repeals and adds, or repeals that section.

O