

AMENDED IN SENATE JULY 6, 2015

AMENDED IN ASSEMBLY MAY 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1194**

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**Introduced by Assembly Member Eggman**

February 27, 2015

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An act to amend Section 5150 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1194, as amended, Eggman. Mental health: involuntary commitment.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of persons with specified mental disorders for the protection of the persons so committed. Under the act, when a person, as a result of mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, he or she may, upon probable cause, be taken into custody by a peace officer, member of the attending staff of an evaluation facility, designated members of a mobile crisis team, or other designated professional person, and placed in a facility designated by the county and approved by the State Department of Social Services as a facility for 72-hour treatment and evaluation. Existing law requires, when determining if probable cause exists to take a person into custody, or cause a person to be taken into custody pursuant to the provisions described above, any person who is authorized to take or cause that person to be taken into custody to consider available relevant information about the historical course of the person's mental disorder, as specified, if the authorized person

determines that information has a reasonable bearing on the determination described above.

This bill would require, when determining if a person is a danger to himself or herself, or to others, as a result of a mental health disorder, that the individual making that determination consider available relevant information about the historical course of the person’s mental disorder, as that phrase is defined, if the individual concludes that the information has a reasonable bearing on the determination.

Existing law requires the admitting facility to require an application in writing stating the circumstances under which the person’s condition was called to the attention of those persons authorized to make the determination of probable cause, and stating that he or she has probable cause, as specified.

The bill would also require the application to record whether the historical course of a person’s mental disorder was considered in the determination of probable cause.

By imposing additional duties on local officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. Section 5150 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 5150. (a) When a person, as a result of a mental health
- 4 disorder, is a danger to others, or to himself or herself, or gravely
- 5 disabled, a peace officer, professional person in charge of a facility
- 6 designated by the county for evaluation and treatment, member of
- 7 the attending staff, as defined by regulation, of a facility designated
- 8 by the county for evaluation and treatment, designated members
- 9 of a mobile crisis team, or professional person designated by the
- 10 county may, upon probable cause, take, or cause to be taken, the

1 person into custody for a period of up to 72 hours for assessment,  
2 evaluation, and crisis intervention, or placement for evaluation  
3 and treatment in a facility designated by the county for evaluation  
4 and treatment and approved by the State Department of Health  
5 Care Services. At a minimum, assessment, as defined in Section  
6 5150.4, and evaluation, as defined in subdivision (a) of Section  
7 5008, shall be conducted and provided on an ongoing basis. Crisis  
8 intervention, as defined in subdivision (e) of Section 5008, may  
9 be provided concurrently with assessment, evaluation, or any other  
10 service.

11 (b) When determining if a person is a danger to himself or  
12 herself, or to others, as a result of a mental health disorder, the  
13 individual making that determination shall consider available  
14 relevant information about the historical course of the person's  
15 mental disorder, as that phrase is defined in Section 5150.05, if  
16 the individual concludes that the information has a reasonable  
17 bearing on the determination. For purposes of this section, danger  
18 is not limited to danger of imminent harm.

19 (c) The professional person in charge of a facility designated  
20 by the county for evaluation and treatment, member of the  
21 attending staff, or professional person designated by the county  
22 shall assess the person to determine whether he or she can be  
23 properly served without being detained. If, in the judgment of the  
24 professional person in charge of the facility designated by the  
25 county for evaluation and treatment, member of the attending staff,  
26 or professional person designated by the county, the person can  
27 be properly served without being detained, he or she shall be  
28 provided evaluation, crisis intervention, or other inpatient or  
29 outpatient services on a voluntary basis. Nothing in this subdivision  
30 shall be interpreted to prevent a peace officer from delivering  
31 individuals to a designated facility for assessment under this  
32 section. Furthermore, the assessment requirement of this  
33 subdivision shall not be interpreted to require peace officers to  
34 perform any additional duties other than those specified in Sections  
35 5150.1 and 5150.2.

36 (d) Whenever a person is evaluated by a professional person in  
37 charge of a facility designated by the county for evaluation or  
38 treatment, member of the attending staff, or professional person  
39 designated by the county and is found to be in need of mental  
40 health services, but is not admitted to the facility, all available

1 alternative services provided pursuant to subdivision ~~(b)~~ (c) shall  
2 be offered as determined by the county mental health director.

3 (e) If, in the judgment of the professional person in charge of  
4 the facility designated by the county for evaluation and treatment,  
5 member of the attending staff, or the professional person designated  
6 by the county, the person cannot be properly served without being  
7 detained, the admitting facility shall require an application in  
8 writing stating the circumstances under which the person's  
9 condition was called to the attention of the peace officer,  
10 professional person in charge of the facility designated by the  
11 county for evaluation and treatment, member of the attending staff,  
12 or professional person designated by the county, and stating that  
13 the peace officer, professional person in charge of the facility  
14 designated by the county for evaluation and treatment, member of  
15 the attending staff, or professional person designated by the county  
16 has probable cause to believe that the person is, as a result of a  
17 mental health disorder, a danger to others, or to himself or herself,  
18 or gravely disabled. The application shall also record whether the  
19 historical course of the person's mental disorder was considered  
20 in the determination, pursuant to Section 5150.05. If the probable  
21 cause is based on the statement of a person other than the peace  
22 officer, professional person in charge of the facility designated by  
23 the county for evaluation and treatment, member of the attending  
24 staff, or professional person designated by the county, the person  
25 shall be liable in a civil action for intentionally giving a statement  
26 that he or she knows to be false.

27 (f) At the time a person is taken into custody for evaluation, or  
28 within a reasonable time thereafter, unless a responsible relative  
29 or the guardian or conservator of the person is in possession of the  
30 person's personal property, the person taking him or her into  
31 custody shall take reasonable precautions to preserve and safeguard  
32 the personal property in the possession of or on the premises  
33 occupied by the person. The person taking him or her into custody  
34 shall then furnish to the court a report generally describing the  
35 person's property so preserved and safeguarded and its disposition,  
36 in substantially the form set forth in Section 5211, except that if  
37 a responsible relative or the guardian or conservator of the person  
38 is in possession of the person's property, the report shall include  
39 only the name of the relative or guardian or conservator and the  
40 location of the property, whereupon responsibility of the person

1 taking him or her into custody for that property shall terminate.  
 2 As used in this section, “responsible relative” includes the spouse,  
 3 parent, adult child, domestic partner, grandparent, grandchild, or  
 4 adult brother or sister of the person.

5 (g) (1) Each person, at the time he or she is first taken into  
 6 custody under this section, shall be provided, by the person who  
 7 takes him or her into custody, the following information orally in  
 8 a language or modality accessible to the person. If the person  
 9 cannot understand an oral advisement, the information shall be  
 10 provided in writing. The information shall be in substantially the  
 11 following form:

12  
 13 My name is \_\_\_\_\_ .  
 14 I am a \_\_\_\_\_ .  
 15 (peace officer/mental health professional)  
 16 with \_\_\_\_\_ .  
 17 (name of agency)  
 18 You are not under criminal arrest, but I am taking you for an examination by  
 19 mental health professionals at \_\_\_\_\_ .  
 20 \_\_\_\_\_ .  
 21 (name of facility)

22 You will be told your rights by the mental health staff.

23  
 24 (2) If taken into custody at his or her own residence, the person  
 25 shall also be provided the following information:

26  
 27 You may bring a few personal items with you, which I will have  
 28 to approve. Please inform me if you need assistance turning off  
 29 any appliance or water. You may make a phone call and leave a  
 30 note to tell your friends or family where you have been taken.

31  
 32 (h) The designated facility shall keep, for each patient evaluated,  
 33 a record of the advisement given pursuant to subdivision ~~(f)~~ (g)  
 34 which shall include all of the following:

- 35 (1) The name of the person detained for evaluation.
- 36 (2) The name and position of the peace officer or mental health
- 37 professional taking the person into custody.
- 38 (3) The date the advisement was completed.
- 39 (4) Whether the advisement was completed.

- 1 (5) The language or modality used to give the advisement.
- 2 (6) If the advisement was not completed, a statement of good
- 3 cause, as defined by regulations of the State Department of Health
- 4 Care Services.

5 (i) (1) Each person admitted to a facility designated by the  
 6 county for evaluation and treatment shall be given the following  
 7 information by admission staff of the facility. The information  
 8 shall be given orally and in writing and in a language or modality  
 9 accessible to the person. The written information shall be available  
 10 to the person in English and in the language that is the person's  
 11 primary means of communication. Accommodations for other  
 12 disabilities that may affect communication shall also be provided.  
 13 The information shall be in substantially the following form:

14  
 15 My name is \_\_\_\_\_.  
 16 My position here is \_\_\_\_\_.

17 You are being placed into this psychiatric facility because it is our  
 18 professional opinion that, as a result of a mental health disorder, you are likely  
 19 to (check applicable):

- 20  Harm yourself.
- 21  Harm someone else.
- 22  Be unable to take care of your own food, clothing, and housing needs.

23 We believe this is true because  
 24 \_\_\_\_\_

25 (list of the facts upon which the allegation of dangerous  
 26 or gravely disabled due to mental health disorder is based, including pertinent  
 27 facts arising from the admission interview).

28 You will be held for a period up to 72 hours. During the 72 hours you may  
 29 also be transferred to another facility. You may request to be evaluated or  
 30 treated at a facility of your choice. You may request to be evaluated or treated  
 31 by a mental health professional of your choice. We cannot guarantee the facility  
 32 or mental health professional you choose will be available, but we will honor  
 33 your choice if we can.

34 During these 72 hours you will be evaluated by the facility staff, and you  
 35 may be given treatment, including medications. It is possible for you to be  
 36 released before the end of the 72 hours. But if the staff decides that you need  
 37 continued treatment you can be held for a longer period of time. If you are  
 38 held longer than 72 hours, you have the right to a lawyer and a qualified  
 39 interpreter and a hearing before a judge. If you are unable to pay for the lawyer,  
 40 then one will be provided to you free of charge.

1 If you have questions about your legal rights, you may contact the county  
 2 Patients' Rights Advocate at \_\_\_\_\_  
 3 (phone number for the county Patients' Rights  
 4 \_\_\_\_\_ .  
 5 Advocacy office)  
 6 Your 72-hour period began \_\_\_\_\_ .  
 7 (date/time)

8  
 9 (2) If the notice is given in a county where weekends and  
 10 holidays are excluded from the 72-hour period, the patient shall  
 11 be informed of this fact.

12 (j) For each patient admitted for evaluation and treatment, the  
 13 facility shall keep with the patient's medical record a record of the  
 14 advisement given pursuant to subdivision (i), which shall include  
 15 all of the following:

- 16 (1) The name of the person performing the advisement.
- 17 (2) The date of the advisement.
- 18 (3) Whether the advisement was completed.
- 19 (4) The language or modality used to communicate the  
 20 advisement.
- 21 (5) If the advisement was not completed, a statement of good  
 22 cause.

23 SEC. 2. If the Commission on State Mandates determines that  
 24 this act contains costs mandated by the state, reimbursement to  
 25 local agencies and school districts for those costs shall be made  
 26 pursuant to Part 7 (commencing with Section 17500) of Division  
 27 4 of Title 2 of the Government Code.