

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1300

Introduced by Assembly Member Ridley-Thomas

February 27, 2015

An act to amend Sections 5001, 5008, 5013, 5150, 5150.05, 5150.1, 5150.2, 5151, 5152.1, 5153, and 5270.50 of, to add Sections 5001.5, 5022, 5023, 5024, 5025, 5026, 5150.25, 5150.3, 5151.1, and 5151.2 to, to add the heading of Article 1.3 (commencing with Section 5151) to, to add Article 1.1 (commencing with Section 5150.10) to, to add Article 1.2 (commencing with Section 5150.30) to, Chapter 2 of Part 1 of Division 5 of, to repeal Section 5150.4 of, and to repeal and add Section 5152.2 of, the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1300, as amended, Ridley-Thomas. Mental health: involuntary commitment.

Under existing law, when a person, as a result of mental 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 Health Care Services as a facility for 72-hour treatment and evaluation.

This bill would authorize counties to designate one or more persons to act as a local or regional liaison to assist a person who is a patient in

an emergency department of a defined nondesignated hospital and who has been detained, or who may require detention, for evaluation and treatment, as specified. The bill would reorganize and make changes to the provisions relating to the detention for evaluation and treatment of a person who may be subject to the above provisions, including specifying procedures for delivery of those individuals to various facilities; evaluation of the person for probable cause for detention for evaluation and treatment; terms and length of detention, where appropriate, in various types of facilities; and criteria for release from defined designated facilities and nondesignated hospitals. The bill would authorize a provider of ambulance services to transfer a person who is voluntarily transferring to a designated facility for evaluation and treatment. The bill would also make changes to the methods by which law enforcement is notified of the release of a person detained for evaluation and treatment.

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

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

- 1 SECTION 1. Section 5001 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 5001. The provisions of this part and Part 1.5 (commencing
- 4 with Section 5585) shall be construed to promote the legislative
- 5 intent as follows:
- 6 (a) To end the inappropriate, indefinite, and involuntary
- 7 commitment of persons with mental health disorders,
- 8 developmental disabilities, and chronic alcoholism, and to eliminate
- 9 legal disabilities.
- 10 (b) To provide prompt evaluation and treatment of persons with
- 11 mental health disorders or impaired by chronic alcoholism.
- 12 (c) To guarantee and protect public safety.
- 13 (d) To safeguard individual rights through judicial review.
- 14 (e) To provide individualized treatment, supervision, and
- 15 placement services by a conservatorship program for persons who
- 16 are gravely disabled.
- 17 (f) To encourage the full use of all existing agencies,
- 18 professional personnel, and public funds to accomplish these
- 19 objectives and to prevent duplication of services and unnecessary
- 20 expenditures.

1 (g) To protect persons with mental health disorders and
2 developmental disabilities from criminal acts.

3 (h) To provide consistent standards for protection of the personal
4 rights of persons receiving services under this part and under Part
5 1.5 (commencing with Section 5585).

6 (i) To provide services in the least restrictive setting appropriate
7 to the needs of each person receiving services under this part and
8 under Part 1.5 (commencing with Section 5585).

9 (j) To ensure that persons receive services from facilities and
10 providers that are qualified and best suited to provide the services,
11 and that persons are not detained in settings that are not therapeutic
12 or not designed to meet their needs.

13 (k) To affirm that no person may be presumed to be incompetent
14 because he or she has been evaluated or treated for a mental health
15 disorder or chronic alcoholism, regardless of whether that
16 evaluation or treatment was voluntarily or involuntarily received.

17 SEC. 2. Section 5001.5 is added to the Welfare and Institutions
18 Code, to read:

19 5001.5. It is the intent of the Legislature that each county shall
20 have the responsibility to ensure that all persons with mental health
21 disorders who are subject to detention under this part or under Part
22 1.5 (commencing with Section 5585) receive prompt evaluation
23 and treatment in accordance with this part and Part 1.5
24 (commencing with Section 5585), including prompt assessment
25 of the need for evaluation and treatment. It is the intent of the
26 Legislature that each county establish and maintain a mental health
27 service system that has sufficient capacity to ensure the provision
28 of services under this ~~Part~~ *part* and Part 1.5 (commencing with
29 Section 5585), including, at a minimum, the services required
30 under paragraph (2) of subdivision (a) of Section 5651.

31 SEC. 3. Section 5008 of the Welfare and Institutions Code is
32 amended to read:

33 5008. Unless the context otherwise requires, the following
34 definitions shall govern the construction of this part:

35 (a) "Antipsychotic medication" means medication customarily
36 prescribed for the treatment of symptoms of psychoses and other
37 severe mental and emotional disorders.

38 (b) "Application for detention for evaluation and treatment"
39 means the written application set forth in Section 5150.3.

1 (c) (1) “Assessment” means the determination, as described in
2 subdivision (b) of Section 5150 and Section 5151, of the following:

3 (A) Whether the person meets the criteria for detention for
4 evaluation and treatment.

5 (B) Whether the person is in need of evaluation and treatment
6 and, if so, what services are needed for the person.

7 (C) Whether the person can be properly served without being
8 detained, in which case the services shall be provided on a
9 voluntary basis.

10 (2) “Assessment” includes, but is not limited to, mental status
11 determination, analysis of clinical and social history, analysis of
12 relevant cultural issues and history, diagnosis, and the use of testing
13 procedures.

14 (d) “Authorized professional” means any of the following:

15 (1) A mental health professional or category of mental health
16 professionals, excluding peace officers, who are authorized in
17 writing by a county to provide services described in this
18 subdivision. An authorized professional shall have appropriate
19 training in mental health disorders and determination of probable
20 cause, and shall have relevant experience in providing services to
21 persons with mental health disorders.

22 (2) An authorized professional as described in paragraph (1)
23 who is a member of the staff of a designated facility and who is
24 authorized by the facility to provide services described in this
25 subdivision.

26 (3) A member of a mobile crisis team who is authorized in
27 writing by a county to provide services described in this
28 subdivision.

29 (e) “Conservatorship investigation” means an investigation, by
30 an agency appointed or designated by the governing body, of cases
31 in which conservatorship is recommended pursuant to Chapter 3
32 (commencing with Section 5350).

33 (f) “Court,” unless otherwise specified, means a court of record.

34 (g) “Court-ordered evaluation” means an evaluation ordered by
35 a superior court pursuant to Article 2 (commencing with Section
36 5200) or by a superior court pursuant to Article 3 (commencing
37 with Section 5225) of Chapter 2.

38 (h) “Crisis intervention” consists of an interview or series of
39 interviews within a brief period of time, conducted by qualified
40 professionals, and designed to alleviate personal or family

1 situations which present a serious and imminent threat to the health
2 or stability of the person or the family. The interview or interviews
3 may be conducted in the home of the person or family, or on an
4 inpatient or outpatient basis with such therapy, or other services,
5 as may be appropriate. The interview or interviews may include
6 family members, significant support persons, providers, or other
7 entities or individuals, as appropriate and as authorized by law.
8 Crisis intervention may, as appropriate, include suicide prevention,
9 psychiatric, welfare, psychological, legal, or other social services.

10 (i) “Crisis stabilization service or unit” means an ambulatory
11 service that provides probable cause determinations and
12 assessments, collateral services, and therapy within the scope of
13 its designation under this part.

14 (j) “Department” means the State Department of Health Care
15 Services.

16 (k) (1) “Designated facility” means a facility or a specific unit
17 or part of a facility that is licensed or certified as a mental health
18 evaluation facility, a mental health treatment facility, or a mental
19 health evaluation and treatment facility. A designated facility may
20 be an inpatient facility or an ambulatory facility.

21 (2) “Inpatient facility” means a health facility, or an inpatient
22 unit of a health facility, as defined in Chapter 2 (commencing with
23 Section 1250) of Division 2 of the Health and Safety Code, that
24 is licensed by the State of California, has the capability to admit
25 and treat persons on an inpatient basis subject to the requirements
26 of this part, and is designated by a county pursuant to Section 5023.
27 Inpatient facility also includes a hospital or the inpatient unit of a
28 hospital operated by the United States government that has the
29 capability to admit and treat persons on an inpatient basis, subject
30 to the requirements of this part, and that is designated by the county
31 pursuant to Section 5023. A designated inpatient facility includes
32 any of the following:

33 (A) A general acute care hospital, as defined in subdivision (a)
34 of Section 1250 of the Health and Safety Code.

35 (B) An acute psychiatric hospital, as defined in subdivision (b)
36 of Section 1250 of the Health and Safety Code.

37 (C) A psychiatric health facility, as defined in Section 1250.2
38 of the Health and Safety Code.

39 (D) A correctional treatment center, as defined in Section 1250
40 of the Health and Safety Code, operated by a county, city, or city

1 and county law enforcement agency. The department may approve
2 an unlicensed correctional treatment center that is in existence as
3 of January 1, 2016, if the correctional treatment center meets all
4 of the licensing requirements except those that are structurally
5 impracticable.

6 (3) “Ambulatory facility” means a facility designated by a
7 county under Section 5023 that provides psychiatric services lasting
8 less than 24 hours in accordance with applicable law and within
9 the scope of the designation. An ambulatory facility may include
10 an outpatient hospital department, clinic, crisis stabilization facility
11 or unit, facility of a medical group, facility of a provider
12 organization other than a medical group, or other facility that meets
13 the requirements established by the department in accordance with
14 Section 5023.

15 (l) “Detained for evaluation and treatment” and “detention for
16 evaluation and treatment” mean the taking into custody and
17 detention of a person in accordance with Section 5150.

18 (m) “Emergency” means a sudden marked change in the
19 person’s condition such that action to impose treatment over the
20 person’s objection is immediately necessary for the preservation
21 of life or the prevention of serious bodily harm to the patient or
22 others, and it is impracticable to first gain consent. It is not
23 necessary for harm to take place or become unavoidable prior to
24 treatment.

25 (n) “Emergency transport provider” means a provider of
26 ambulance services licensed by the Department of the California
27 Highway Patrol or operated by a public safety agency and includes
28 the authorized personnel of an emergency transport provider who
29 are certified or licensed under Sections 1797.56, 1797.80, 1797.82,
30 and 1797.84 of the Health and Safety Code.

31 (o) “Evaluation” means a multidisciplinary professional analyses
32 of a person’s medical, psychological, educational, social, financial,
33 and legal conditions as may appear to constitute a problem. Persons
34 providing evaluation services shall be properly qualified
35 professionals and may be full-time employees, part-time
36 employees, or independent contractors of a county, designated
37 facility, or other agency providing face-to-face evaluation services.
38 Face-to-face evaluation services includes face-to-face evaluation
39 by means of telehealth.

1 (p) (1) For purposes of Article 1 (commencing with Section
2 5150), Article 2 (commencing with Section 5200), and Article 4
3 (commencing with Section 5250) of Chapter 2, and for the purposes
4 of Chapter 3 (commencing with Section 5350), “gravely disabled”
5 means either of the following:

6 (A) A condition in which a person, as a result of a mental health
7 disorder, is unable to provide for his or her basic personal needs
8 for food, clothing, or shelter.

9 (B) A condition in which a person, has been found mentally
10 incompetent under Section 1370 of the Penal Code and all of the
11 following facts exist:

12 (i) The indictment or information pending against the person at
13 the time of commitment charges a felony involving death, great
14 bodily harm, or a serious threat to the physical well-being of
15 another person.

16 (ii) The indictment or information has not been dismissed.

17 (iii) As a result of a mental health disorder, the person is unable
18 to understand the nature and purpose of the proceedings taken
19 against him or her and to assist counsel in the conduct of his or
20 her defense in a rational manner.

21 (2) For purposes of Article 3 (commencing with Section 5225)
22 and Article 4 (commencing with Section 5250), of Chapter 2, and
23 for the purposes of Chapter 3 (commencing with Section 5350),
24 “gravely disabled” means a condition in which a person, as a result
25 of impairment by chronic alcoholism, is unable to provide for his
26 or her basic personal needs for food, clothing, or shelter.

27 (3) The term “gravely disabled” does not include persons with
28 intellectual disabilities by reason of that disability alone.

29 (q) “Intensive treatment” consists of hospital and other services
30 as may be indicated. Intensive treatment shall be provided by
31 properly qualified professionals and carried out in facilities
32 qualifying for reimbursement under the California Medical
33 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
34 with Section 14000) of Part 3 of Division 9, or under Title XVIII
35 of the federal Social Security Act and regulations thereunder.
36 Intensive treatment may be provided in hospitals of the United
37 States government by properly qualified professionals. Nothing
38 in this part shall be construed to prohibit an intensive treatment
39 facility from also providing 72-hour evaluation and treatment.

1 (r) “Local or regional liaison” means a person or persons
2 authorized by a county, or by two or more counties acting jointly,
3 under Section 5024.

4 (s) “Mobile crisis team” means a team comprised of one or more
5 professionals, and which may also include peer counselors, who
6 are authorized by a county to provide probable cause
7 determinations and other services under this part.

8 (t) “Peace officer” means a duly sworn peace officer as that
9 term is defined in Chapter 4.5 (commencing with Section 830) of
10 Title 3 of Part 2 of the Penal Code who has completed the basic
11 training course established by the Commission on Peace Officer
12 Standards and Training, or any parole officer or probation officer
13 specified in Section 830.5 of the Penal Code when acting in relation
14 to cases for which he or she has a legally mandated responsibility.

15 (u) “Postcertification treatment” means an additional period of
16 treatment pursuant to Article 6 (commencing with Section 5300)
17 of Chapter 2.

18 (v) “Prepetition screening” is a screening of all petitions for
19 court-ordered evaluation as provided in Article 2 (commencing
20 with Section 5200) of Chapter 2, consisting of a professional
21 review of the petition; an interview with the petitioner and,
22 whenever possible, the person alleged, as a result of a mental health
23 disorder, to be a danger to others, or to himself or herself, or to be
24 gravely disabled, to assess the problem and explain the petition;
25 and when indicated, efforts to persuade the person to receive, on
26 a voluntary basis, comprehensive evaluation, crisis intervention,
27 referral, and other services specified in this part.

28 (w) “Probable cause determination” means a determination
29 whether there is probable cause for the detention of a person for
30 evaluation and treatment. A probable cause determination shall be
31 based solely on the criteria for detaining a person for evaluation
32 and treatment pursuant to Section 5150. The probable cause
33 determination shall not consider the availability of beds or services
34 at designated facilities within or outside of the county.

35 (x) “Professional person in charge of a facility” means the
36 licensed person authorized by a designated facility who is
37 responsible for the clinical direction of the designated facility.

38 (y) “Professional staff” means the medical staff or other
39 organized professional staff of an inpatient facility.

1 (z) “Referral” means referral of persons by each facility,
2 provider, or other organization providing assessment, evaluation,
3 crisis intervention, or treatment services to other facilities,
4 providers, or agencies in accordance with Section 5013 and Part
5 1.5 (commencing with Section 5585).

6 (aa) “Telehealth” means the telehealth services, as defined in
7 paragraph (6) of subdivision (a) of Section 2290.5 of the Business
8 and Professions Code, for the purpose of providing services under
9 this part, including a probable cause determination, the release of
10 a person from detention for evaluation and treatment under Section
11 5150.15, assessment or evaluation, and treatment. For purposes
12 of this part, telehealth services may be used by any licensed
13 professional, including a psychologist, clinical social worker, and
14 other mental health professional, acting within the scope of his or
15 her profession for providing evaluation, treatment, consultation,
16 or other mental health services under this part.

17 SEC. 4. Section 5013 of the Welfare and Institutions Code is
18 amended to read:

19 5013. (a) The purpose of a referral shall be to provide for
20 continuity of care and services. A referral may include, but need
21 not be limited to, informing the person of available services,
22 making appointments on the person’s behalf, communication with
23 the agency or individual to which the person has been referred,
24 appraising the outcome of referrals, and arranging for escort,
25 transportation, or both, when necessary. All persons shall be
26 advised of available precare services that prevent initial recourse
27 to hospital treatment or aftercare services that support adjustment
28 to community living following hospital treatment. These services
29 may be provided through county or city mental health departments,
30 state hospitals under the jurisdiction of the State Department of
31 State Hospitals, regional centers under contract with the State
32 Department of Developmental Services, or other public or private
33 entities.

34 (b) It is the intent of the Legislature that referrals between
35 facilities, providers, and other organizations shall be facilitated by
36 the sharing of information and records in accordance with Section
37 5328 and applicable federal and state laws.

38 (c) Each city or county behavioral health department is
39 encouraged to include on its Internet Web site a current list of
40 ambulatory behavioral health services and other resources for

1 persons with behavioral health disorders and substance use
2 disorders in the city or county that may be accessed by providers
3 and consumers of behavioral health services. The list of services
4 on the Internet Web site should be updated at least annually by the
5 city or county behavioral health department.

6 SEC. 5. Section 5022 is added to the Welfare and Institutions
7 Code, to read:

8 5022. The department shall promote the consistent statewide
9 application of this part in order to ensure protection of the personal
10 rights of all persons who are subject to this part and Part 1.5
11 (commencing with Section 5585). The department shall provide
12 oversight of the statewide application of this part and facilitate
13 discussion among the organizations listed in subdivision (a) of
14 Section 5400, law enforcement agencies, hospitals, mental health
15 professionals, county patients' rights advocates, the California
16 Office of Patients' Rights, and other stakeholders as may be
17 necessary or desirable to achieve the legislative intent of consistent
18 statewide application. These discussions shall include situations
19 where persons are certified for additional intensive treatment in a
20 county authorizing that treatment under Article 4.7 (commencing
21 with Section 5270.10) of Chapter 2 who are then transferred to a
22 facility during the course of additional intensive treatment in a
23 county that has not authorized additional intensive treatment.

24 SEC. 6. Section 5023 is added to the Welfare and Institutions
25 Code, to read:

26 5023. (a) Each county may designate inpatient and ambulatory
27 facilities within the county, with the approval of the department,
28 that meet the applicable requirements established by the department
29 by regulation. An outpatient or emergency department of a
30 nondesignated inpatient facility may be designated as an
31 ambulatory facility if it meets all the requirements for certification
32 as an ambulatory facility.

33 (b) (1) Each county may designate ambulatory facilities within
34 the county that meet the behavioral health needs of persons within
35 the requirements of applicable law and the scope of their
36 designation. The department shall encourage counties to use
37 appropriate ambulatory facilities for the evaluation and treatment
38 of persons pursuant to this part.

39 (2) Counties, mental health professionals, providers, and other
40 organizations, with the support of the department, are encouraged

1 to establish crisis stabilization services and other ambulatory
2 facilities that are designated by a county to provide probable cause
3 determinations and assessments, and, as applicable, evaluation and
4 treatment services and crisis stabilization services, in settings that
5 are appropriate to the needs of persons with severe mental illness
6 and less restrictive than inpatient health facilities.

7 (3) Nothing in this subdivision shall preclude the designation
8 of an ambulatory facility that is an outpatient clinic of a licensed
9 health facility.

10 (4) An ambulatory facility shall provide services within the
11 scope of its designation to all persons regardless of their place of
12 residence.

13 (c) Regulations adopted pursuant to this part establishing staffing
14 standards for designated facilities shall be consistent with
15 applicable licensing regulations for the type of facility. If there are
16 no licensing regulations for the type of designated facility, or for
17 certain categories of professional personnel providing services in
18 a type of designated facility, the regulations adopted pursuant to
19 this part for staffing standards may differentiate between the types
20 of designated facilities, including ambulatory facilities. ~~On January~~
21 ~~1, 2016, the existing regulations establishing staffing standards~~
22 ~~for designated facilities set forth in Section 663 of Title 9 of the~~
23 ~~California Code of Regulations are repealed and nullified.~~

24 (d) A county shall not charge or assess a fee for the designation
25 of a facility or an authorized professional.

26 (e) Each designated facility shall accept, within its clinical
27 capability and capacity, all categories of persons for whom it is
28 designated, without regard to insurance or financial status. If a
29 person presents to a designated facility with a psychiatric
30 emergency medical condition, as defined in subdivision (f) of
31 Section 5150.10, that is beyond its capability, the facility shall
32 assist the person in obtaining emergency services and care at an
33 appropriate facility.

34 (f) In order to provide access by members of the public to
35 information about designated facilities, each county department
36 responsible for mental health services shall maintain on its Internet
37 Web site the locations of all designated facilities within the county,
38 including address, the types of services available at each designated
39 facility, and the hours of operation for ambulatory facilities. The

1 Internet Web site shall be updated if there are changes to the
2 information.

3 (g) Each county shall report to the department, on at least an
4 annual basis, a current list of designated facilities within the county,
5 including the name and address of each facility and its facility
6 type. The department shall maintain a list of designated facilities,
7 by county and facility licensure type, on its Internet Web site, and
8 update the list not less than annually. The department Internet Web
9 site shall also contain links to each county Internet Web site
10 required by subdivision (f).

11 (h) Counties are encouraged to share information with adjacent
12 and other counties with respect to its roster of authorized
13 professionals. An authorized professional shall not be required to
14 obtain approval from another county to be an authorized
15 professional in that county in order to take action under this part.

16 SEC. 7. Section 5024 is added to the Welfare and Institutions
17 Code, to read:

18 5024. (a) Each county may authorize one or more qualified
19 persons to act as a local or regional liaison to assist nondesignated
20 hospitals in the county in accordance with this section and Article
21 1.1 (commencing with Section 5150.10) of Chapter 2. Two or
22 more counties may enter into an intercounty arrangement under
23 which the participating counties agree to authorize one or more
24 persons to act as a local or regional liaison to assist nondesignated
25 hospitals in the participating counties in accordance with this
26 section and Article 1.1 (commencing with Section 5150.10) of
27 Chapter 2.

28 (b) The role of the local or regional liaison is to assist a person
29 who is a patient in an emergency department of a nondesignated
30 hospital and who has been detained, or may require detention, for
31 evaluation and treatment. The assistance may include any of the
32 following:

33 (1) Arranging for an authorized professional to provide a prompt
34 probable cause determination under Section 5150.13.

35 (2) Arranging for an authorized professional to determine
36 whether the detention for evaluation and treatment of a person
37 shall be released under Section 5150.15.

38 (3) Arranging for the placement of a person detained for
39 evaluation and treatment who has been medically stabilized for
40 transfer or discharge to a designated facility.

1 (c) A local or regional liaison may be employed by, or may
2 contract with, a county or counties and may include personnel of
3 one or more designated facilities within the county or counties.
4 The role of the local or regional liaison may be rotated among the
5 categories of persons described in this subdivision.

6 (d) A local or regional liaison shall be available 24 hours a day,
7 including weekends and holidays, to provide assistance under this
8 section.

9 (e) Each county, or counties acting jointly under this section,
10 shall provide the nondesignated hospitals in the county or counties
11 with the contact information for a local or regional liaison. The
12 means of contact may be a designated telephone number, email,
13 text-messaging or other electronic means, or any combination of
14 the foregoing, so long as the local or regional liaison has immediate
15 access to the means of contact. The contact information provided
16 to nondesignated hospitals shall be updated as necessary.

17 (f) This section shall not apply to a county that has not
18 authorized a local or regional liaison.

19 SEC. 8. Section 5025 is added to the Welfare and Institutions
20 Code, to read:

21 5025. (a) A designated facility or nondesignated hospital, as
22 defined in subdivision (e) of Section 5150.10, or a physician,
23 employee, or other staff person acting within the scope of his or
24 her official duties or employment for the designated facility or
25 nondesignated hospital shall not be liable for any injury resulting
26 from determining any of the following:

27 (1) Whether to detain a person for a mental health disorder,
28 inebriation, chronic alcoholism, or the use of narcotics or a
29 restricted dangerous drug in accordance with this part.

30 (2) The terms, conditions, and enforcement of detention for a
31 person with a mental health disorder, inebriation, chronic
32 alcoholism, or the use of narcotics or a restricted dangerous drug
33 in accordance with this part.

34 (3) Whether to release a person detained for a mental disorder,
35 inebriation, chronic alcoholism, or the use of narcotics or a
36 restricted dangerous drug in accordance with this part.

37 (b) A physician, employee, or other staff person acting within
38 the scope of his or her official duties or employment for a
39 designated facility or nondesignated hospital shall not be liable

1 for carrying out a determination described in subdivision (a) so
2 long as he or she uses due care.

3 SEC. 9. Section 5026 is added to the Welfare and Institutions
4 Code, to read:

5 5026. (a) A designated facility or nondesignated hospital, as
6 defined in subdivision (e) of Section 5150.10, or a physician,
7 employee, or other staff person acting within the scope of his or
8 her official duties or employment for the designated facility or
9 nondesignated hospital shall not be liable for any of the following:

10 (1) An injury caused by an eloping or eloped person who has
11 been detained for a mental health disorder or addiction.

12 (2) An injury to, or the wrongful death of, an eloping or eloped
13 person who has been detained for a mental health disorder or
14 addiction.

15 (b) Nothing in this section shall exonerate a physician,
16 employee, or other staff person acting within the scope of his or
17 her official duties or employment for a designated facility or
18 nondesignated hospital from liability if he or she acted or failed
19 to act because of actual fraud, corruption, or actual malice.

20 SEC. 10. Section 5150 of the Welfare and Institutions Code is
21 amended to read:

22 5150. (a) When a person, as a result of a mental health
23 disorder, is a danger to others, or to himself or herself, or gravely
24 disabled, a peace officer or an authorized professional acting within
25 the scope of his or her authorization may, upon probable cause,
26 take, or cause to be taken, the person into custody for a period of
27 up to 72 hours for assessment, evaluation, and crisis intervention,
28 or placement for evaluation and treatment in a facility designated
29 by the county for evaluation and treatment and approved by the
30 department. At a minimum, assessment, as defined in subdivision
31 (c) of Section 5008, and evaluation, as defined in subdivision (n)
32 of Section 5008, shall be conducted and provided on an ongoing
33 basis. Crisis intervention, as defined in subdivision (g) of Section
34 5008, may be provided concurrently with assessment, evaluation,
35 or any other service. The period of 72-hour detention for evaluation
36 and treatment shall begin at the time that the person is initially
37 detained pursuant to this section.

38 (b) (1) When an individual detained pursuant to subdivision
39 (a) is taken to a designated facility for evaluation and treatment,
40 the professional person in charge, a member of the attending staff

1 of the designated facility, or an authorized professional acting
2 within the scope of his or her authorization by the county, shall
3 assess the person to determine whether he or she can be properly
4 served without being detained. The assessment shall be performed
5 based on the clinical condition and needs of a person detained for
6 evaluation and treatment. This section shall not be construed to
7 prevent an authorized professional from providing consultation or
8 other professional assistance by telehealth. If in the judgment of
9 the authorized professional, the person can be properly served
10 without being detained, he or she shall be provided evaluation,
11 crisis intervention, or other inpatient or outpatient services on a
12 voluntary basis.

13 (2) If the person detained for evaluation and treatment is taken
14 to a designated ambulatory facility that is authorized by the county
15 to conduct an assessment, the assessment shall be conducted by
16 the professional person in charge of the designated ambulatory
17 facility or his or her designee acting within the scope of his or her
18 licensed profession. The assessment in a designated ambulatory
19 facility may be performed by or in consultation with an authorized
20 member of the professional staff of a designated inpatient facility
21 using telehealth if the designated inpatient facility has agreed to
22 admit the person in accordance with subdivision (a) upon a
23 determination that an involuntary admission is appropriate.

24 (3) This section shall not be construed to prevent a peace officer,
25 or an authorized professional employee of an emergency transport
26 provider acting at the direction of the peace officer, from delivering
27 individuals to a designated facility for an assessment under this
28 section. Furthermore, the assessment requirement of this section
29 shall not be construed to require peace officers or authorized
30 professional employees of emergency transport providers acting
31 at the direction of the peace officer to perform any additional duties
32 other than those specified in Sections 5150.1 and 5150.2.

33 (4) If an individual detained under subdivision (a) is first taken
34 to an emergency department of a nondesignated hospital, as defined
35 in subdivision (e) of Section 5150.10, the provisions of Article 1.1
36 (commencing with Section 5150.10) shall apply to the individual
37 during his or her stay in the emergency department of a
38 nondesignated hospital. This section does not require the peace
39 officer or authorized professional who detained the individual

1 pursuant to subdivision (a) to take or cause the individual to be
2 taken to an emergency department of a nondesignated hospital.
3 (5) Notwithstanding paragraph (2) of subdivision (j) of Section
4 5008, or any regulation, if a person detained for evaluation and
5 treatment presents or is transferred to a designated ambulatory
6 facility, and following a new determination of probable cause, the
7 professional person in charge of the designated ambulatory facility
8 or his or her designee determines that the person continues to meet
9 the criteria for detention under Section 5150 and should be admitted
10 to a designated inpatient facility for further evaluation and
11 treatment, the designated ambulatory facility shall make and
12 document good faith efforts to arrange placement for the person
13 in a designated inpatient facility. Subject to the requirements of
14 subdivision (a), if the designated ambulatory facility has been
15 unable to arrange placement for the person in a designated inpatient
16 facility within 24 hours, the designated ambulatory facility shall
17 continue to provide evaluation and treatment for the person beyond
18 24 hours in order to arrange for placement and transfer of the
19 person to a designated inpatient facility, provided the designated
20 ambulatory facility, prior to the expiration of the 24 hours, notifies
21 the county in which it is located and the mental health patients’
22 rights advocate for the county that it is continuing to detain the
23 person beyond 24 hours. The designated ambulatory facility shall
24 not transfer or send a person to an emergency department of a
25 nondesignated hospital unless the person requires examination or
26 treatment for a medical condition that is beyond the capability of
27 the designated ambulatory facility.
28 (c) Whenever a person is evaluated by an authorized professional
29 and is found to be in need of mental health services, but is not
30 admitted to the facility, all available alternative services provided
31 pursuant to subdivision (b) shall be offered as determined by the
32 county mental health director.
33 (d) If, in the judgment of the authorized professional, the person
34 cannot be properly served without being detained, the admitting
35 facility shall require an application in writing pursuant to Section
36 5150.3.
37 (e) At the time a person is taken into custody for evaluation, or
38 within a reasonable time thereafter, unless a responsible relative
39 or the guardian or conservator of the person is in possession of the
40 person’s personal property, the person taking him or her into

1 custody shall take reasonable precautions to preserve and safeguard
 2 the personal property in the possession of or on the premises
 3 occupied by the person. The person taking him or her into custody
 4 shall then furnish to the court a report generally describing the
 5 person’s property so preserved and safeguarded and its disposition,
 6 in substantially the form set forth in Section 5211, except that if
 7 a responsible relative or the guardian or conservator of the person
 8 is in possession of the person’s property, the report shall include
 9 only the name of the relative or guardian or conservator and the
 10 location of the property, whereupon responsibility of the person
 11 taking him or her into custody for that property shall terminate.
 12 As used in this section, “responsible relative” includes the spouse,
 13 parent, adult child, domestic partner, grandparent, grandchild, or
 14 adult brother or sister of the person.

15 (f) (1) Each person, at the time he or she is first taken into
 16 custody under this section, shall be provided, by the person who
 17 takes him or her into custody, the following information orally in
 18 a language or modality accessible to the person. If the person
 19 cannot understand an oral advisement, the information shall be
 20 provided in writing. The information shall be in substantially the
 21 following form:

22
 23 My name is _____ .
 24 I am a _____ .
 25 (peace officer/mental health professional)
 26 with _____ .
 27 (name of agency)

28 You are not under criminal arrest, but I am taking you for an examination by
 29 mental health professionals at _____ .
 30 _____
 31 (name of facility)

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

33
 34 (2) If taken into custody at his or her own residence, the person
 35 shall also be provided the following information:

36
 37 You may bring a few personal items with you, which I will have
 38 to approve. Please inform me if you need assistance turning off

1 any appliance or water. You may make a phone call and leave a
2 note to tell your friends or family where you have been taken.

3
4 (g) The designated facility shall keep, for each patient evaluated,
5 a record of the advisement given pursuant to subdivision (f) which
6 shall include all of the following:

- 7 (1) The name of the person detained for evaluation.
- 8 (2) The name and position of the peace officer or mental health
9 professional taking the person into custody.
- 10 (3) The date the advisement was completed.
- 11 (4) Whether the advisement was completed.
- 12 (5) The language or modality used to give the advisement.
- 13 (6) If the advisement was not completed, a statement of good
14 cause, as defined by regulations of the State Department of Health
15 Care Services.

16 (h) Each person admitted to a facility designated by the county
17 for evaluation and treatment shall be given the following
18 information by admission staff of the facility. The information
19 shall be given orally and in writing and in a language or modality
20 accessible to the person. The written information shall be available
21 to the person in English and in the language that is the person's
22 primary means of communication. Accommodations for other
23 disabilities that may affect communication shall also be provided.
24 The information shall be in substantially the following form:

25
26 My name is _____.

27 My position here is _____.

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

- 31 Harm yourself.
- 32 Harm someone else.
- 33 Be unable to take care of your own food, clothing, and housing needs.

34 We believe this is true because

35 _____
36 (list of the facts upon which the allegation of dangerous
37 or gravely disabled due to mental health disorder is based, including pertinent
38 facts arising from the admission interview).

1 You will be held for a period up to 72 hours. During the 72 hours you may
 2 also be transferred to another facility. You may request to be evaluated or
 3 treated at a facility of your choice. You may request to be evaluated or treated
 4 by a mental health professional of your choice. We cannot guarantee the facility
 5 or mental health professional you choose will be available, but we will honor
 6 your choice if we can.

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

14 If you have questions about your legal rights, you may contact the county
 15 Patients' Rights Advocate at _____
 16 (phone number for the county Patients' Rights
 17 _____ .
 18 Advocacy office)

19 Your 72-hour period began _____ .
 20 (date/time)

21
 22 (i) For each patient admitted for evaluation and treatment, the
 23 facility shall keep with the patient's medical record a record of the
 24 advisement given pursuant to subdivision (h), which shall include
 25 all of the following:

- 26 (1) The name of the person performing the advisement.
- 27 (2) The date of the advisement.
- 28 (3) Whether the advisement was completed.
- 29 (4) The language or modality used to communicate the
 30 advisement.
- 31 (5) If the advisement was not completed, a statement of good
 32 cause.

33 SEC. 11. Section 5150.05 of the Welfare and Institutions Code
 34 is amended to read:

35 5150.05. (a) When determining if probable cause exists to
 36 take a person into custody, or cause a person to be taken into
 37 custody, pursuant to Section 5150, a person who is authorized to
 38 take that person, or cause that person to be taken, into custody
 39 pursuant to that section shall consider available relevant
 40 information about the historical course of the person's mental

1 disorder if the authorized person determines that the information
2 has a reasonable bearing on the determination as to whether the
3 person is a danger to others, or to himself or herself, or is gravely
4 disabled as a result of the mental disorder.

5 (b) For purposes of this section, “information about the historical
6 course of the person’s mental disorder” includes evidence presented
7 by the person who has provided or is providing mental health or
8 related support services to the person subject to a determination
9 described in subdivision (a), evidence presented by one or more
10 members of the family of that person, and evidence presented by
11 the person subject to a determination described in subdivision (a)
12 or anyone designated by that person.

13 (c) If the probable cause in subdivision (a) is based on the
14 statement of a person other than one authorized to take the person
15 into custody pursuant to Section 5150, the person making the
16 statement shall be liable in a civil action for intentionally giving
17 a statement that he or she knows to be false.

18 (d) This section shall not be applied to limit the application of
19 Section 5328.

20 SEC. 12. Section 5150.1 of the Welfare and Institutions Code
21 is amended to read:

22 5150.1. (a) A peace officer or authorized professional
23 employee of an emergency transport provider acting at the direction
24 of a peace officer, seeking to transport, or having transported, a
25 person to a designated facility for assessment pursuant to
26 subdivision (a) of Section 5150 or Section 5151, shall not be
27 instructed by mental health personnel to take the person to, or keep
28 the person at, a jail solely because of the unavailability of an acute
29 bed. The peace officer or the authorized professional employee of
30 an emergency transport provider acting at the direction of the peace
31 officer, shall not be forbidden to transport the person directly to
32 the designated facility. No mental health employee from any
33 county, state, city, or any private agency providing psychiatric
34 emergency services shall interfere with a peace officer or an
35 authorized professional employee of an emergency transport
36 provider acting at the direction of a peace officer performing duties
37 under Section 5150 by preventing the peace officer from detaining
38 a person for evaluation and treatment or preventing the peace
39 officer or an authorized professional employee of an emergency
40 transport provider acting at the direction of a peace officer from

1 entering a designated facility with the person for an assessment.
2 An employee of a facility shall not require the peace officer or an
3 authorized professional employee of an emergency transport
4 provider acting at the direction of a peace officer to remove the
5 person without an assessment as a condition of allowing the peace
6 officer or an authorized professional employee of an emergency
7 transport provider acting at the direction of a peace officer to
8 depart.

9 (b) An emergency transport provider, or any certified or licensed
10 personnel of an emergency transport provider, shall not be civilly
11 or criminally liable for any of the following that may be applicable
12 to the transport of a person who has been detained for evaluation
13 and treatment:

14 (1) The continuation of the detention for evaluation and
15 treatment while transporting the person to a designated facility or
16 an emergency department of a nondesignated hospital at the
17 direction of a peace officer or authorized professional who detained
18 the person for evaluation and treatment.

19 (2) The continuation of the detention for evaluation and
20 treatment while transporting the person detained for evaluation
21 and treatment to a designated facility or an emergency department
22 of a nondesignated hospital at the direction of the treating
23 emergency professional in an emergency department of a
24 nondesignated hospital for an assessment or other service under
25 Section 5151.

26 (c) For purposes of this section, “peace officer” means a peace
27 officer as defined in Chapter 4.5 (commencing with Section 830)
28 of Title 3 of Part 2 of the Penal Code and also includes a jailer
29 seeking to transport or transporting a person in custody to a
30 designated facility for an assessment consistent with Section 4011.6
31 or 4011.8 of the Penal Code and Section 5150.

32 SEC. 13. Section 5150.2 of the Welfare and Institutions Code
33 is amended to read:

34 5150.2. In each county, whenever a peace officer or the
35 authorized professional employee of an emergency transport
36 provider acting at the direction of the peace officer has transported
37 a person to a designated facility for an assessment, the officer or
38 professional employee of an emergency transporter shall be
39 detained no longer than the time necessary to complete
40 documentation of the factual basis of the detention for evaluation

1 and treatment and effectuate a prompt, safe, and orderly transfer
2 of physical custody of the person.

3 SEC. 14. Section 5150.3 is added to the Welfare and
4 Institutions Code, to read:

5 5150.3. (a) (1) The peace officer or an authorized professional
6 who takes a person into custody or otherwise initially detains a
7 person pursuant to Section 5150 shall complete and sign an
8 application for detention for evaluation and treatment, in the form
9 prescribed by subdivision (g), stating the circumstances under
10 which the person's condition was called to the attention of the
11 peace officer or authorized professional, and stating that the peace
12 officer or authorized professional has probable cause to believe
13 that the person is, as a result of a mental health disorder, a danger
14 to others, or to himself or herself, or gravely disabled.

15 (2) The documentation shall include detailed information
16 regarding the factual circumstances and observations constituting
17 probable cause for the peace officer or authorized professional to
18 believe that the person should be detained for evaluation and
19 treatment in accordance with Section 5150. If the probable cause
20 is based on the statement of a person other than the peace officer
21 or authorized professional, the person shall be liable in a civil
22 action for intentionally giving a statement that he or she knows is
23 false.

24 (3) A designated facility or nondesignated hospital shall require
25 presentation of the application as a condition of continuation of
26 the detention for evaluation and treatment. If the application is not
27 presented to the designated facility or nondesignated hospital, as
28 applicable, the person shall be immediately released from detention
29 for evaluation and treatment.

30 (4) An application for detention for evaluation and treatment
31 shall be valid in all counties to which the person may be taken to
32 a designated facility.

33 (b) (1) If the person detained by a peace officer or authorized
34 professional is in a location other than a designated facility or
35 nondesignated hospital, the original or copy of the application for
36 detention for evaluation and treatment shall be presented to the
37 designated facility under paragraph (2) or the nondesignated
38 hospital under paragraph (3).

39 (2) If after detention under Section 5150, the person is first taken
40 to a designated facility, the original or a copy of the signed

1 application for detention for evaluation and treatment shall be
2 presented to the designated facility.

3 (3) If after detention under Section 5150, the person is first taken
4 to a nondesignated hospital, the original or a copy of the signed
5 application for detention for evaluation and treatment shall be
6 presented to the nondesignated hospital. If the person is
7 subsequently transferred to a designated facility, the nondesignated
8 hospital shall deliver the original or a copy of the signed application
9 for detention for evaluation and treatment to the designated facility.
10 If the person is discharged from the nondesignated hospital under
11 Section 5150.15 or 5150.16, without a transfer to a designated
12 facility, the nondesignated hospital shall maintain the original or
13 a copy of the original signed application for detention for
14 evaluation and treatment.

15 (c) If a person detained for evaluation and treatment is
16 subsequently released from detention for evaluation and treatment
17 pursuant to Section 5150.15 or 5151, the application for detention
18 for evaluation and treatment in the possession of a designated
19 facility or nondesignated hospital shall be retained for the period
20 of time required by the medical records retention policy of the
21 designated facility or nondesignated hospital.

22 (d) The determination of a peace officer or authorized
23 professional to detain a person under Section 5150 and complete
24 and sign an application for detention for evaluation and treatment,
25 shall be based solely on whether the person meets the criteria for
26 detention for evaluation and treatment as set forth in Section 5150.
27 The determination shall not be delayed, denied, or refused based
28 on the availability of beds or services at designated facilities to
29 which a person may be taken under this article.

30 (e) If a person detained for evaluation and treatment under
31 Section 5150 is transported by a professional employee of an
32 emergency transport provider to a designated facility or
33 nondesignated hospital at the request of a peace officer or an
34 authorized professional, the peace officer or authorized professional
35 shall give the application for detention for evaluation and treatment
36 to the professional employee of the emergency transport provider
37 if the peace officer or authorized professional does not accompany
38 the person to the designated facility or nondesignated hospital.

39 (f) A copy of the application for detention for evaluation and
40 treatment shall be given to an emergency transport provider if the

1 person detained for evaluation and treatment is transported from
2 a nondesignated hospital to a designated facility or from a
3 designated facility to another designated facility.

4 (g) Not later than July 1, 2016, the department shall adopt and
5 make available a standardized form of the application for detention
6 for evaluation and treatment that shall be used by peace officers
7 and authorized professionals to apply for detention of a person for
8 evaluation and treatment under Section 5150 and by authorized
9 professionals to release a person from detention for evaluation and
10 treatment pursuant to Section 5150.15 or 5151. In developing the
11 form, the department shall request comments from stakeholders
12 including the organizations described in subdivision (b) of Section
13 5400. The form of the application for detention for evaluation and
14 treatment shall, at a minimum, provide all of the following:

15 (1) A description of the person's behavior and other relevant
16 facts that provide the basis for probable cause under Sections 5150
17 and 5150.05 of the person's detainment for evaluation and
18 treatment.

19 (2) For persons detained for evaluation and treatment who are
20 first taken to an emergency department of a nondesignated hospital,
21 documentation of the facts and conclusions that provide the basis
22 for the determination of medical clearance, excluding a psychiatric
23 emergency medical condition, by the emergency professional
24 treating the person in the emergency department to transfer the
25 person to a designated facility.

26 (3) Documentation of the facts and conclusions that provide the
27 basis for the determination by an authorized professional authorized
28 to perform an assessment that the person should be admitted for
29 involuntary evaluation and treatment under Section 5152.

30 (4) Determination of the facts and conclusions that support the
31 determination by an authorized professional authorized to release
32 a person from detention in accordance with Section 5150.14 or
33 5151.

34 (5) Request by a peace officer under Section 5152.1 for
35 notification of the person's release or discharge by a designated
36 facility or nondesignated hospital.

37 (6) All of the information required by subdivision (f) of Section
38 5150.

39 SEC. 15. Section 5150.4 of the Welfare and Institutions Code
40 is repealed.

1 SEC. 16. Article 1.1 (commencing with Section 5150.10) is
2 added to Chapter 2 of Part 1 of Division 5 of the Welfare and
3 Institutions Code, to read:

4
5 Article 1.1. Persons Detained in Nondesignated Hospitals
6

7 5150.10. Unless the context otherwise requires, the following
8 definitions shall govern the construction of this article:

9 (a) “Emergency department of a nondesignated hospital” means
10 a basic, comprehensive, or standby emergency medical service
11 that is approved by the State Department of Public Health as a
12 special or supplemental service of a nondesignated hospital. For
13 purposes of this part, an emergency department of a nondesignated
14 hospital shall include an observation or similar unit of the hospital
15 that meets both of the following criteria:

16 (1) The unit is operated under the direction and policies of the
17 emergency department.

18 (2) The unit provides continuing emergency services and care
19 to patients prior to an inpatient admission, transfer, or discharge.

20 (b) “Emergency professional” means either of the following:

21 (1) A physician and surgeon who is board certified or pursuing
22 board certification in emergency medicine, or a qualified licensed
23 person, as defined in subdivision (g), during any scheduled period
24 that he or she is on duty to provide medical screening and treatment
25 of patients in an emergency department of a nondesignated hospital.

26 (2) A physician and surgeon, or a qualified licensed person, as
27 defined in subdivision (g), during any scheduled period that he or
28 she is on duty to provide medical screening and treatment of
29 patients in the emergency department of a nondesignated hospital
30 that is a critical access hospital within the meaning of Section
31 1250.7 of the Health and Safety Code. A physician and surgeon
32 on duty under this paragraph shall include a physician and surgeon
33 on call for a standby emergency medical service who is responsible
34 to provide professional coverage for the emergency department.
35 A physician and surgeon on duty under this paragraph does not
36 include a physician and surgeon who is providing on-call specialty
37 coverage services to the emergency department of a nondesignated
38 hospital, unless the physician and surgeon is an emergency
39 professional under paragraph (1).

- 1 (c) “Emergency services and care” has the same meaning as in
2 subdivision (a) of Section 1317.1 of the Health and Safety Code.
- 3 (d) “EMTALA” means the Emergency Medical Treatment and
4 Labor Act, and regulations adopted pursuant thereto, as defined
5 in Section 1395dd of Title 42 of the United States Code.
- 6 (e) “Nondesignated hospital” means a general acute care
7 hospital, as defined in subdivision (a) of Section 1250 of the Health
8 and Safety Code or an acute psychiatric hospital, as defined in
9 subdivision (b) of Section 1250 of the Health and Safety Code,
10 that is not a designated facility.
- 11 (f) “Psychiatric emergency medical condition” has the same
12 meaning as in subdivision (k) of Section 1317.1 of the Health and
13 Safety Code.
- 14 (g) “Psychiatric professional” means a physician and surgeon
15 who is board certified or pursuing board certification in psychiatry
16 and who is providing specialty services to the emergency
17 department of a nondesignated hospital.
- 18 (h) “Qualified licensed person” means a licensed person
19 designated by the medical staff and governing body of a
20 nondesignated hospital to provide emergency services and care,
21 to the extent permitted by applicable law, in an emergency
22 department of the nondesignated hospital under the supervision
23 of a physician and surgeon.
- 24 (i) “Stabilized” has the same meaning as in subdivision (j) of
25 Section 1317.1 of the Health and Safety Code.
- 26 5150.11. (a) The Legislature finds and declares all of the
27 following:
- 28 (1) A person who has been detained for evaluation and treatment
29 pursuant to Section 5150 should be taken to a designated facility
30 rather than an emergency department of a nondesignated hospital.
- 31 (2) A person who has been detained for evaluation and treatment
32 pursuant to Section 5150 should be detained in an emergency
33 department of a nondesignated hospital only for the time necessary
34 to provide required emergency services and care and obtain medical
35 clearance, unless the person requires an admission for inpatient
36 services.
- 37 (3) A person who has been detained for evaluation and treatment
38 pursuant to Section 5150 has the right to receive a prompt
39 assessment to determine the appropriateness of the detention and
40 the need for evaluation and treatment at a designated facility.

1 (b) It is also the intent of the Legislature that nothing in this
2 chapter shall be construed to require a peace officer or any other
3 authorized professional to take a person detained for evaluation
4 and treatment to an emergency department of a nondesignated
5 hospital instead of taking the person to a designated facility, unless
6 the peace officer or authorized professional reasonably determines
7 that the person is in need of emergency care and services that
8 should be provided at an emergency department of a nondesignated
9 hospital before the person is transported to a designated facility.

10 5150.12. (a) This section shall apply to a person who has been
11 detained for evaluation and treatment by a peace officer or an
12 authorized professional and is taken to an emergency department
13 of a nondesignated hospital for emergency services and care.

14 (b) While the person is in the emergency department of the
15 nondesignated hospital, the detention of the person for evaluation
16 and treatment shall continue, unless the person is released from
17 detention pursuant to Section 5150.15 or 5150.16.

18 5150.13. (a) This section shall apply if, during a person's
19 examination or treatment in an emergency department, there is a
20 need for a determination of probable cause for the detention of the
21 person for evaluation and treatment.

22 (b) If a person who has not been detained for evaluation and
23 treatment has signs or symptoms, in the judgment of the treating
24 emergency professional, that indicate probable cause for detention
25 for evaluation and treatment, the person shall have the right to a
26 prompt probable cause determination in accordance with any of
27 the following:

28 (1) The hospital may contact the county to arrange for a probable
29 cause determination by an authorized professional, including, but
30 not limited to, a member of a mobile crisis team.

31 (2) (A) If the county in which the nondesignated hospital is
32 located has a local or regional liaison, the hospital may contact the
33 local or regional liaison to arrange for an authorized professional
34 to provide a prompt probable cause determination of the person.

35 (B) The local or regional liaison shall advise the nondesignated
36 hospital within 30 minutes of the time of the initial contact whether
37 an authorized professional can perform the probable cause
38 determination within two hours from the time of the initial contact
39 with the local or regional liaison.

1 (C) The probable cause determination shall be based solely on
2 the criteria for detaining a person for evaluation and treatment.
3 The probable cause determination shall not consider the availability
4 of beds or services at designated facilities within or outside of the
5 county.

6 (D) The probable cause determination may be conducted by an
7 authorized professional utilizing telehealth.

8 (3) The treating emergency professional may conduct a probable
9 cause determination and, upon a finding of probable cause, detain
10 the person for evaluation and treatment in accordance with Sections
11 5150 and 5150.3.

12 (c) If the person is detained for evaluation and treatment
13 pursuant to this section, the detention shall continue during his or
14 her stay in the emergency department of a nondesignated hospital,
15 unless the person is released from detention pursuant to Section
16 5150.15 or 5150.16 or the detention ends by reason of the
17 expiration of 72 hours pursuant to subdivision (a) of Section 5150.

18 5150.14. (a) This section shall apply to a person who is first
19 detained pursuant to Section 5150 for evaluation and treatment in
20 a nondesignated hospital emergency department or has been
21 detained pursuant to Section 5150 for evaluation and treatment
22 and first taken to an emergency department of a nondesignated
23 hospital.

24 (b) (1) Except as provided in subdivision (e), the nondesignated
25 hospital shall notify the county in which the nondesignated hospital
26 is located of the person's detention.

27 (2) If the person was detained for evaluation and treatment and
28 taken to the emergency department of the nondesignated hospital
29 pursuant to Section 5150.12, the notification shall occur after the
30 hospital has performed an initial medical screening of the person
31 in accordance with paragraphs (1) and (2) of subdivision (a) of
32 Section 1317.1 of the Health and Safety Code.

33 (3) If the person is first detained for evaluation and treatment
34 in the emergency department of the nondesignated hospital
35 pursuant to Section 5150.13, the notification shall occur when the
36 probable cause determination has been completed.

37 (c) The notification to the county shall be made using the
38 24-hour toll-free telephone number established by the county's
39 mental health program for psychiatric emergency services and
40 crisis stabilization if the county's mental health program has a

1 24-hour toll-free telephone number in operation on January 1,
2 2016, for this purpose. The notification shall be documented in
3 the patient's medical record.

4 (d) The nondesignated hospital shall advise the county of all of
5 the following:

6 (1) The time when the 72-hour detention period for evaluation
7 and treatment expires.

8 (2) An estimate of the time when the person will be medically
9 stable for transfer to a designated facility.

10 (3) The county in which the person resides, if known.

11 (e) The notification to the county under this section shall not
12 be required if the treating emergency professional determines that
13 the person will be admitted, pursuant to Section 5150.16, to an
14 acute care bed of a nondesignated hospital for the primary purpose
15 of receiving acute inpatient services for a medical condition that
16 is in addition to the person's psychiatric condition.

17 5150.15. (a) This section shall establish a process for releasing
18 from detention a person who has been detained for evaluation and
19 treatment during the time that the person is detained in the
20 emergency department of a nondesignated hospital.

21 (b) If the treating emergency professional determines that there
22 is no longer probable cause to continue the detention for evaluation
23 and treatment, the treating emergency professional may initiate a
24 followup probable cause determination to determine whether the
25 person may be released from detention for evaluation and
26 treatment. The followup probable cause determination shall be
27 made in accordance with either of the following:

28 (1) The hospital may contact the county, or a local or regional
29 liaison if authorized by the county, to arrange for an authorized
30 professional to perform a followup probable cause determination
31 to determine whether the person may be released from detention
32 for evaluation and treatment. If a county or a local or regional
33 liaison cannot arrange for an authorized professional to make the
34 determination within two hours of the initial call to the county or
35 the local or regional liaison and there is no probable cause for
36 detention, the treating emergency professional may perform a
37 followup probable cause determination to determine whether the
38 person may be released from detention for evaluation and
39 treatment.

1 (2) The treating emergency professional, without first contacting
2 the county or a local or regional liaison, may perform a followup
3 probable cause determination to determine whether the person
4 may be released from detention for evaluation and treatment.

5 (c) The determination under this section to release a person from
6 detention for evaluation and treatment shall be based solely on
7 whether there is probable cause to continue the detention for
8 evaluation and treatment. The determination to continue the
9 detention or to release the person from detention shall not be based
10 on the availability of beds or services at designated facilities within
11 or outside of the county, or on anything other than whether there
12 is probable cause for detention.

13 (d) The followup probable cause determination under this section
14 may be conducted by an authorized professional utilizing
15 telehealth.

16 (e) The followup probable cause determination under this section
17 may be conducted by a psychiatric professional.

18 5150.16. (a) This section shall apply to a person detained for
19 evaluation and treatment who is admitted to a nonpsychiatric unit
20 of a general acute care hospital for acute medical services. This
21 section shall apply to all general acute care hospitals, including
22 general acute care hospitals that are designated facilities.

23 (b) If the person detained for evaluation and treatment is
24 admitted to a nonpsychiatric unit of a general acute care hospital
25 for the primary purpose of receiving acute inpatient services for a
26 medical condition that is in addition to the person's psychiatric
27 condition, the effect on the detention for evaluation and treatment
28 while receiving acute medical services shall be as follows:

29 (1) If the hospital offers to provide assessment, evaluation, and
30 crisis intervention services and the person consents to the services
31 on a voluntary basis in addition to acute medical services, the
32 person shall be released from detention.

33 (2) If the hospital offers to provide assessment, evaluation, and
34 crisis intervention services and the person refuses or is unable to
35 consent to the services on a voluntary basis in addition to acute
36 medical services, the detention for evaluation and treatment shall
37 continue in effect during the acute hospital stay, for so long as
38 there continues to be probable cause for the detention.

1 (3) If the hospital does not have the capability to provide
2 assessment, evaluation, and crisis intervention services, the person
3 shall be released from detention for evaluation and treatment.

4 (c) The release of the person from detention for evaluation and
5 treatment shall be communicated to the person and documented
6 in the person's medical record.

7 (d) This section shall not apply to a person detained for
8 evaluation and treatment who meets both of the following:

9 (1) The person does not require acute inpatient services for a
10 medical condition.

11 (2) The person is awaiting a transfer to a designated facility and
12 is placed in an acute bed of the nondesignated hospital for the
13 purpose of securing the protection of the person or other persons,
14 or both, in the nondesignated hospital pending the transfer of the
15 person to a designated facility.

16 (e) In all cases described in subdivision (b), if the discharge
17 plan for the patient provides for followup evaluation and treatment
18 at a psychiatric facility, the patient shall be advised of the
19 recommended need for the followup evaluation and treatment.

20 (f) If the person is not able or willing to accept treatment on a
21 voluntary basis, or to accept the referral or transfer to a psychiatric
22 facility, the hospital shall obtain a new probable cause
23 determination for detention for evaluation and treatment pursuant
24 to Section 5150 in order to take or cause the person to be taken to
25 a designated facility. Upon request by the hospital, a county shall
26 arrange for an authorized professional to conduct a probable cause
27 determination in a timely manner, which may be performed by the
28 authorized professional utilizing telehealth.

29 5150.17. (a) This section, together with Sections 5150.18 and
30 5150.19, shall apply to the placement in a designated facility of a
31 person in a nondesignated hospital emergency department who
32 has been detained for evaluation and treatment.

33 (b) The person may be placed in any designated facility that has
34 the capability to meet the needs of the person, including a
35 designated ambulatory facility.

36 (c) Prior to placement in a designated ambulatory facility,
37 personnel at the designated ambulatory facility shall confirm
38 whether the facility can meet the needs of the person within the
39 scope of its designation and capability.

1 5150.18. (a) This section shall apply to the placement in a
2 designated facility for a person described in Section 5150.17 if the
3 person has a psychiatric emergency medical condition.

4 (b) If a person, in the judgment of the treating emergency
5 professional, has a psychiatric emergency medical condition, the
6 placement in a designated facility shall be made as follows:

7 (1) The placement may be in any designated facility that has
8 the capability and capacity to provide evaluation and treatment for
9 the person, whether that designated facility is located within or
10 outside of the county of the hospital.

11 (2) The treating emergency professional shall determine the
12 mode of transportation, including personnel and equipment, that
13 are appropriate for the transport of the person to the designated
14 facility.

15 (3) In the event of a disagreement as to whether the person under
16 this section has a psychiatric emergency medical condition, the
17 judgment of the treating emergency professional shall prevail.

18 (4) The placement of a person described in this subdivision shall
19 take precedence over provider networks.

20 (c) If the person, in the judgment of the treating emergency
21 professional, does not have a psychiatric emergency medical
22 condition, the placement of the person in a designated facility for
23 evaluation and treatment shall be deemed to be made for a medical
24 reason within the meaning of Section 1317.2 of the Health and
25 Safety Code.

26 (d) This section shall also apply to a person who has been
27 medically stabilized, but is being held in an inpatient unit of the
28 nondesignated hospital for the purposes of ensuring the safety and
29 security of the person or other persons, pending placement of the
30 person in a designated facility for evaluation and treatment.

31 (e) If a person detained for evaluation and treatment is in the
32 emergency department of a nondesignated hospital, or in a bed not
33 licensed for psychiatric care, the nondesignated hospital shall make
34 good faith efforts to arrange placement for the person in a
35 designated facility and, pending placement, shall provide further
36 screening, treatment, and monitoring consistent with the needs of
37 the patient and within the capacity of the hospital.

38 5150.19. (a) This section describes assistance that may be
39 available to an emergency department of a nondesignated hospital

1 for the placement in a designated facility of a person described in
2 Section 5150.17.

3 (b) If a person has been taken to or detained by a
4 county-authorized professional in the emergency department of
5 the nondesignated hospital, the authorized professional shall assist
6 the nondesignated hospital in arranging for the placement of the
7 person with an appropriate designated facility.

8 (c) If a person is detained for evaluation and treatment by a
9 peace officer or a treating emergency professional in the emergency
10 department of the nondesignated hospital, the hospital may contact
11 the local or regional liaison, if authorized for the county in which
12 the nondesignated hospital is located, to assist the hospital in
13 arranging for the placement of the person in a designated facility,
14 as follows:

15 (1) Contact with the local or regional liaison may be initiated
16 when the treating emergency professional has medically stabilized
17 the person for placement in a designated facility.

18 (2) The hospital shall inform the county or the local or regional
19 liaison whether the person has a psychiatric emergency medical
20 condition that requires a transport of the person in accordance with
21 the EMTALA obligations for making an appropriate transfer.

22 (d) A nondesignated hospital shall make efforts to obtain
23 placement of the person in a designated facility without first
24 contacting the county or the local or regional liaison under this
25 section or in addition to requesting assistance that may be provided
26 by the county or the local or regional liaison.

27 5150.20. (a) The determination of probable cause to detain a
28 person for evaluation and treatment shall be independent of a
29 determination as to whether the person has a psychiatric emergency
30 medical condition for the provision of emergency services and
31 care.

32 (b) A determination of probable cause to detain a person for
33 evaluation and treatment, whether by a peace officer or an
34 authorized professional, shall not be deemed to constitute a
35 psychiatric emergency medical condition unless a treating
36 emergency professional or psychiatric professional has determined
37 that the person has a psychiatric emergency medical condition.

38 (c) A determination by a treating emergency professional or a
39 psychiatric professional that a person has a psychiatric emergency
40 medical condition shall not be deemed to constitute probable cause

1 under Section 5150 that the person may be detained for evaluation
 2 and treatment.

3 (d) A determination by a treating emergency professional or a
 4 psychiatric professional that a person detained for evaluation and
 5 treatment does not have a psychiatric emergency medical condition,
 6 or that the person’s psychiatric emergency medical condition is
 7 stabilized, shall not be deemed to constitute a release of the person
 8 from detention for evaluation and treatment.

9 5150.21. (a) A nondesignated hospital and the professional
 10 staff of the nondesignated hospital shall not be civilly or criminally
 11 liable for the transfer of a person detained for evaluation and
 12 treatment to a designated facility in accordance with this article.

13 (b) The peace officer or authorized professional responsible for
 14 the detention of the person for evaluation and treatment who
 15 transfers the custody of the person to an emergency professional
 16 of a nondesignated hospital, shall not be civilly or criminally liable
 17 for any of the following:

18 (1) The continuation and enforcement of the detention for
 19 evaluation and treatment during the person’s stay in the emergency
 20 department of the nondesignated hospital prior to the discharge of
 21 the person from the hospital in accordance with this article.

22 (2) The release of the person from detention for evaluation and
 23 treatment in accordance with this article.

24 (3) The transfer of the person detained for evaluation and
 25 treatment to a designated facility in accordance with this article.

26 *SEC. 17. Section 5150.25 is added to the Welfare and*
 27 *Institutions Code, to read:*

28 *5150.25. Nothing in this chapter supersedes or abrogates the*
 29 *provisions governing medical control set forth in Chapter 5*
 30 *(commencing with Section 1798) of Division 2.5 of the Health and*
 31 *Safety Code.*

32 ~~SEC. 17:~~

33 *SEC. 18. Article 1.2 (commencing with Section 5150.30) is*
 34 *added to Chapter 2 of Part 1 of Division 5 of the Welfare and*
 35 *Institutions Code, to read:*

36
 37 **Article 1.2. Voluntary Patients**
 38

39 5150.30. (a) A provider of ambulance services licensed by the
 40 Department of the California Highway Patrol or operated by a

1 public safety agency, and the employees of those providers who
2 are certified or licensed under Section 1797.56 of the Health and
3 Safety Code, shall be authorized to transport a person who is in a
4 hospital or facility on a voluntary basis to a designated facility for
5 psychiatric treatment. This section shall apply to transfers from
6 any type of facility, including nondesignated hospitals and other
7 facilities.

8 (b) A person shall not be detained for evaluation and treatment
9 solely for the purpose of transporting the person, or transferring
10 the person by a provider of ambulance services, to a designated
11 facility or an emergency department of a nondesignated hospital.

12 (c) Not later than July 1, 2016, the department shall adopt and
13 make available a standardized form that will enable voluntary
14 patients to consent to transfer between facilities by a provider of
15 ambulance services. The form shall be provided to voluntary
16 patients to sign before the transfer of the patient. The form shall
17 be kept in the patient's ~~chart~~ *medical record*. Copies of the form
18 shall be given to the patient and the provider of ambulance services.

19 (d) This section shall apply to all patients who are on voluntary
20 status, regardless of whether the person was previously detained
21 for evaluation and treatment at any point during the course of
22 treatment at a nondesignated hospital or designated facility prior
23 to the transfer.

24 (e) No person shall require a person to be subject to detention
25 for evaluation and treatment for the purpose of authorizing or
26 providing evaluation, treatment, or admission to a facility, or as a
27 condition for providing or paying for medical services, care, or
28 treatment, including emergency services and care, unless there is
29 probable cause under Section 5150 to detain the person for
30 evaluation and treatment and the person cannot be properly served
31 on a voluntary basis. Nothing in this part shall be construed as
32 preventing a person subject to detention for evaluation and
33 treatment from receiving evaluation or treatment on a voluntary
34 basis unless there has been an adjudication under this part that the
35 person lacks the capacity to do so.

36 ~~SEC. 18.~~

37 *SEC. 19.* The heading of Article 1.3 (commencing with Section
38 5151) is added to Chapter 2 of Part 1 of Division 5 of the Welfare
39 and Institutions Code, to read:

Article 1.3. Admission to a Designated Facility

~~SEC. 19.~~

SEC. 20. Section 5151 of the Welfare and Institutions Code is amended to read:

5151. (a) If a designated facility for evaluation and treatment admits the person, it may detain him or her for evaluation and treatment for a period not to exceed 72 hours from the time that the person was initially detained pursuant to subdivision (a) of Section 5150.

(b) Prior to admitting a person to the facility for evaluation and treatment, the professional person in charge of the facility or his or her designee shall conduct an assessment of the individual in person to determine the appropriateness of the involuntary detention.

~~SEC. 20.~~

SEC. 21. Section 5151.1 is added to the Welfare and Institutions Code, to read:

5151.1. If the assessment results in a determination that the person is in need of mental health services, but he or she is not admitted to the facility, the designated facility shall provide the person with appropriate referrals and a list of alternative services and other resources that are appropriate to the needs of the person. The alternative services and other resources shall include both of the following, as applicable:

(a) The services described in subdivision (b) of Section 5150.

(b) The services for persons with severe mental illness and substance use disorders posted by a county on its Internet Web site pursuant to Section 5013.

~~SEC. 21.~~

SEC. 22. Section 5151.2 is added to the Welfare and Institutions Code, to read:

5151.2. (a) Each county shall establish disposition procedures and guidelines with local law enforcement agencies for the safe and orderly transfer of persons detained for evaluation and treatment by a peace officer, who has requested notification under Section 5152.1 of the person's release from detention for evaluation and treatment in accordance with Section 5150.15, 5150.16, or 5151. The disposition procedures and guidelines shall include persons who are not admitted for evaluation and treatment and

1 who decline alternative mental health services and persons who
2 have a criminal detention pending.

3 (b) The disposition procedures and guidelines should include
4 interagency communication between law enforcement agencies
5 located within the county, as well as law enforcement agencies
6 located in other counties, that take or arrange to take persons
7 detained for evaluation and treatment under Section 5150 to health
8 facilities within the county. The disposition procedures and
9 guidelines, including updates, shall be disseminated to designated
10 facilities and nondesignated hospitals.

11 ~~SEC. 22.~~

12 *SEC. 23.* Section 5152.1 of the Welfare and Institutions Code
13 is amended to read:

14 5152.1. (a) A designated facility or nondesignated hospital
15 shall notify the county mental health director, or the director's
16 designee, and the law enforcement agency that employs the peace
17 officer who makes the application for detention for 72-hour
18 evaluation and treatment pursuant to Section 5150, if the person
19 admitted pursuant to Section 5152 will be discharged after a
20 72-hour inpatient admission, when the person is not admitted by
21 the designated facility, when the person discharged before the
22 expiration of the 72-hour inpatient admission, when the person
23 discharged from detention for evaluation and treatment is released
24 under Section 5150.15, 5150.16, or 5151, or if the person elopes
25 from a designated facility or nondesignated hospital, if both of the
26 following conditions apply:

27 (1) The peace officer who made the application for detention
28 for evaluation and treatment requests notification of the person's
29 release or discharge at the time he or she makes the application
30 for detention for evaluation and treatment and the peace officer
31 certified at that time in writing that the person has been detained
32 for evaluation and treatment under circumstances which, based
33 upon an allegation of facts regarding actions witnessed by the
34 officer or another person, would support the filing of a criminal
35 complaint. The application for detention for evaluation and
36 treatment shall include one or more methods of contacting a person
37 at the law enforcement agency who may receive the notification.

38 (2) The notice is limited to the person's name, address, date of
39 admission or initial service, and date of release.

1 (b) If a police officer, law enforcement agency, or designee of
2 the law enforcement agency, possesses any record of information
3 obtained pursuant to the notification requirements of this section,
4 the officer, agency, or designee shall destroy that record two years
5 after receipt of notification.

6 (c) The notice required by this section shall be made prior to
7 the release or discharge of the person, if possible. The designated
8 facility or nondesignated hospital shall consider the distance from
9 the law enforcement agency to the location of the designated
10 facility or nondesignated hospital in giving the notice. The peace
11 officer or other representative of the law enforcement agency
12 receiving the notice shall promptly advise the designated facility
13 or nondesignated hospital whether the peace officer or other law
14 enforcement agency representative shall take custody of the person
15 upon his or her release or discharge from the designated facility
16 or nondesignated hospital and, if so, the time at which the peace
17 officer or other law enforcement agency representative will be
18 present at the designated facility or nondesignated hospital.

19 (d) Nothing in this section shall be construed to require the
20 designated facility or nondesignated hospital to delay the discharge
21 of a person for purposes of awaiting the arrival of the peace officer
22 or another representative of the law enforcement agency.

23 ~~SEC. 23.~~

24 *SEC. 24.* Section 5152.2 of the Welfare and Institutions Code
25 is repealed.

26 ~~SEC. 24.~~

27 *SEC. 25.* Section 5152.2 is added to the Welfare and Institutions
28 Code, to read:

29 5152.2. In addition to the request for notification set forth in
30 the application for detention for evaluation and treatment, each
31 law enforcement agency shall arrange with the county mental
32 health director for a method for designated facilities and
33 nondesignated hospitals to give prompt notification to peace
34 officers under Section 5152.1. The methods for notification for
35 each county shall be disseminated by the county to the designated
36 facilities and nondesignated hospitals located within the county.

37 ~~SEC. 25.~~

38 *SEC. 26.* Section 5153 of the Welfare and Institutions Code is
39 amended to read:

1 5153. Whenever possible, officers charged with apprehension
2 of persons pursuant to this chapter shall dress in plain clothes and
3 travel in unmarked vehicles.

4 ~~SEC. 26.~~

5 *SEC. 27.* Section 5270.50 of the Welfare and Institutions Code
6 is amended to read:

7 5270.50. (a) Notwithstanding Section 5113, if the provisions
8 of Section 5270.35 have been met, the professional person in
9 charge of the facility providing intensive treatment, his or her
10 designee, the medical director of the facility or his or her designee
11 described in Section 5270.53, the psychiatrist directly responsible
12 for the person's treatment, or the psychologist shall not be held
13 civilly or criminally liable for any action by a person released
14 before the end of 30 days pursuant to this article.

15 (b) The professional person in charge of the facility providing
16 intensive treatment or his or her designee, the medical director of
17 the facility or his or her designee described in Section 5270.35,
18 the psychiatrist directly responsible for the person's treatment, or
19 the psychologist shall not be held civilly or criminally liable for
20 any action by a person released at the end of the 30 days pursuant
21 to this article.

22 (c) The attorney or advocate representing the person, the
23 court-appointed commissioner or referee, the certification review
24 hearing officer conducting the certification review hearing, and
25 the peace officer responsible for detaining the person shall not be
26 civilly or criminally liable for any action by a person released at
27 or before the end of 30 days pursuant to this article.

O