

AMENDED IN ASSEMBLY APRIL 30, 2015

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~~ 5150.2.5, 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

1 objectives and to prevent duplication of services and unnecessary
2 expenditures.

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

5 (h) To provide consistent standards for protection of the personal
6 rights of persons receiving services under this part and under Part
7 1.5 (commencing with Section 5585).

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

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

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

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

21 5001.5. It is the intent of the Legislature that each county shall
22 have the responsibility to ensure that all persons with mental health
23 disorders who are subject to detention under this part or under Part
24 1.5 (commencing with Section 5585) receive prompt evaluation
25 and treatment in accordance with this part and Part 1.5
26 (commencing with Section 5585), including prompt assessment
27 of the need for evaluation and treatment. It is the intent of the
28 Legislature that each county establish and maintain a mental health
29 service system that has sufficient capacity to ensure the provision
30 of services under this part and Part 1.5 (commencing with Section
31 5585), including, at a minimum, the services required under
32 paragraph (2) of subdivision (a) of Section 5651.

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

35 5008. Unless the context otherwise requires, the following
36 definitions shall govern the construction of this part:

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

- 1 (b) “Application for detention for evaluation and treatment”
2 means the written application set forth in Section 5150.3.
- 3 (c) (1) “Assessment” means the determination, as described in
4 subdivision (b) of Section 5150 and Section 5151, of the following:
5 (A) Whether the person meets the criteria for detention for
6 evaluation and treatment.
7 (B) Whether the person is in need of evaluation and treatment
8 and, if so, what services are needed for the person.
9 (C) Whether the person can be properly served without being
10 detained, in which case the services shall be provided on a
11 voluntary basis.
- 12 (2) “Assessment” includes, but is not limited to, mental status
13 determination, analysis of clinical and social history, analysis of
14 relevant cultural issues and history, diagnosis, and the use of testing
15 procedures.
- 16 (d) “Authorized professional” means any of the following:
17 (1) A mental health professional or category of mental health
18 professionals, excluding peace officers, who are authorized in
19 writing by a county to provide services described in this
20 subdivision. An authorized professional shall have appropriate
21 training in mental health disorders and determination of probable
22 cause, and shall have relevant experience in providing services to
23 persons with mental health disorders.
24 (2) An authorized professional as described in paragraph (1)
25 who is a member of the staff of a designated facility and who is
26 authorized by the facility to provide services described in this
27 subdivision.
28 (3) A member of a mobile crisis team who is authorized in
29 writing by a county to provide services described in this
30 subdivision.
- 31 (e) “Conservatorship investigation” means an investigation, by
32 an agency appointed or designated by the governing body, of cases
33 in which conservatorship is recommended pursuant to Chapter 3
34 (commencing with Section 5350).
- 35 (f) “Court,” unless otherwise specified, means a court of record.
- 36 (g) “Court-ordered evaluation” means an evaluation ordered by
37 a superior court pursuant to Article 2 (commencing with Section
38 5200) or by a superior court pursuant to Article 3 (commencing
39 with Section 5225) of Chapter 2.

1 (h) “Crisis intervention” consists of an interview or series of
2 interviews within a brief period of time, conducted by qualified
3 professionals, and designed to alleviate personal or family
4 situations which present a serious and imminent threat to the health
5 or stability of the person or the family. The interview or interviews
6 may be conducted in the home of the person or family, or on an
7 inpatient or outpatient basis with such therapy, or other services,
8 as may be appropriate. The interview or interviews may include
9 family members, significant support persons, providers, or other
10 entities or individuals, as appropriate and as authorized by law.
11 Crisis intervention may, as appropriate, include suicide prevention,
12 psychiatric, welfare, psychological, legal, or other social services.

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

17 (j) “Department” means the State Department of Health Care
18 Services.

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

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

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

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

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

3 (D) A correctional treatment center, as defined in Section 1250
4 of the Health and Safety Code, operated by a county, city, or city
5 and county law enforcement agency. The department may approve
6 an unlicensed correctional treatment center that is in existence as
7 of January 1, 2016, if the correctional treatment center meets all
8 of the licensing requirements except those that are structurally
9 impracticable.

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

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

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

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

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

1 facility, or other agency providing face-to-face evaluation services.
2 Face-to-face evaluation services includes face-to-face evaluation
3 by means of telehealth.

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

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

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

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

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

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

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

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

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

1 in this part shall be construed to prohibit an intensive treatment
2 facility from also providing 72-hour evaluation and treatment.

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

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

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

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

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

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

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

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

3 (z) “Referral” means referral of persons by each facility,
4 provider, or other organization providing assessment, evaluation,
5 crisis intervention, or treatment services to other facilities,
6 providers, or agencies in accordance with Section 5013 and Part
7 1.5 (commencing with Section 5585).

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

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

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

36 (b) It is the intent of the Legislature that referrals between
37 facilities, providers, and other organizations shall be facilitated by
38 the sharing of information and records in accordance with Section
39 5328 and applicable federal and state laws.

1 (c) Each city or county behavioral health department is
2 encouraged to include on its Internet Web site a current list of
3 ambulatory behavioral health services and other resources for
4 persons with behavioral health disorders and substance use
5 disorders in the city or county that may be accessed by providers
6 and consumers of behavioral health services. The list of services
7 on the Internet Web site should be updated at least annually by the
8 city or county behavioral health department.

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

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

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

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

36 (b) (1) Each county may designate ambulatory facilities within
37 the county that meet the behavioral health needs of persons within
38 the requirements of applicable law and the scope of their
39 designation. The department shall encourage counties to use

1 appropriate ambulatory facilities for the evaluation and treatment
2 of persons pursuant to this part.

3 (2) Counties, mental health professionals, providers, and other
4 organizations, with the support of the department, are encouraged
5 to establish crisis stabilization services and other ambulatory
6 facilities that are designated by a county to provide probable cause
7 determinations and assessments, and, as applicable, evaluation and
8 treatment services and crisis stabilization services, in settings that
9 are appropriate to the needs of persons with severe mental illness
10 and less restrictive than inpatient health facilities.

11 (3) Nothing in this subdivision shall preclude the designation
12 of an ambulatory facility that is an outpatient clinic of a licensed
13 health facility.

14 (4) An ambulatory facility shall provide services within the
15 scope of its designation to all persons regardless of their place of
16 residence.

17 (c) Regulations adopted pursuant to this part establishing staffing
18 standards for designated facilities shall be consistent with
19 applicable licensing regulations for the type of facility. If there are
20 no licensing regulations for the type of designated facility, or for
21 certain categories of professional personnel providing services in
22 a type of designated facility, the regulations adopted pursuant to
23 this part for staffing standards may differentiate between the types
24 of designated facilities, including ambulatory facilities.

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

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

35 (f) In order to provide access by members of the public to
36 information about designated facilities, each county department
37 responsible for mental health services shall maintain on its Internet
38 Web site the locations of all designated facilities within the county,
39 including address, the types of services available at each designated
40 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,~~ *physician* or other *professional* staff person *who has*
24 *received training in managing persons who have been detained*
25 *for evaluation and treatment and is acting within the scope of his*
26 *or her official duties or employment for the designated facility or*
27 *nondesignated hospital shall not be liable for any injury resulting*
28 *from determining any of the following:*

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

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

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

39 (b) A ~~physician, employee,~~ *physician* or other *professional* staff
40 person *who has received training in managing persons who have*

1 *been detained for evaluation and treatment and is acting within*
 2 *the scope of his or her official duties or employment for a*
 3 *designated facility or nondesignated hospital shall not be liable*
 4 *for carrying out a determination described in subdivision (a) so*
 5 *long as he or she uses due care.*

6 *(c) Nothing in this section shall exonerate a person described*
 7 *in this section from liability if that person acted with gross*
 8 *negligence or willful or wanton misconduct.*

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

11 5026. (a) A designated facility or nondesignated hospital, as
 12 defined in subdivision (e) of Section 5150.10, or a ~~physician,~~
 13 ~~employee,~~ *physician or other professional staff person who has*
 14 *received training in managing persons who have been detained*
 15 *for evaluation and treatment and is acting within the scope of his*
 16 *or her official duties or employment for the designated facility or*
 17 *nondesignated hospital shall not be liable for any of the following:*

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

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

23 (b) ~~Nothing in this section shall exonerate a physician,~~
 24 ~~employee, or other staff person acting within the scope of his or~~
 25 ~~her official duties or employment for a designated facility or~~
 26 ~~nondesignated hospital from liability if he or she acted or failed~~
 27 ~~to act because of actual fraud, corruption, or actual malice.~~ *a person*
 28 *described in this section from liability if that person acted with*
 29 *gross negligence or willful or wanton misconduct.*

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

32 5150. (a) When a person, as a result of a mental health
 33 disorder, is a danger to others, or to himself or herself, or gravely
 34 disabled, a peace officer or an authorized professional acting within
 35 the scope of his or her authorization may, upon probable cause,
 36 take, or cause to be taken, the person into custody for a period of
 37 up to 72 hours for assessment, evaluation, and crisis intervention,
 38 or placement for evaluation and treatment in a facility designated
 39 by the county for evaluation and treatment and approved by the
 40 department. At a minimum, assessment, as defined in subdivision

1 (c) of Section 5008, and evaluation, as defined in subdivision (n)
2 of Section 5008, shall be conducted and provided on an ongoing
3 basis. Crisis intervention, as defined in subdivision (g) of Section
4 5008, may be provided concurrently with assessment, evaluation,
5 or any other service. The period of 72-hour detention for evaluation
6 and treatment shall begin at the time that the person is initially
7 detained pursuant to this section.

8 (b) (1) When an individual detained pursuant to subdivision
9 (a) is taken to a designated facility for evaluation and treatment,
10 the professional person in charge, a member of the attending staff
11 of the designated facility, or an authorized professional acting
12 within the scope of his or her authorization by the county, shall
13 assess the person to determine whether he or she can be properly
14 served without being detained. The assessment shall be performed
15 based on the clinical condition and needs of a person detained for
16 evaluation and treatment. This section shall not be construed to
17 prevent an authorized professional from providing consultation or
18 other professional assistance by telehealth. If in the judgment of
19 the authorized professional, the person can be properly served
20 without being detained, he or she shall be provided evaluation,
21 crisis intervention, or other inpatient or outpatient services on a
22 voluntary basis.

23 (2) If the person detained for evaluation and treatment is taken
24 to a designated ambulatory facility that is authorized by the county
25 to conduct an assessment, the assessment shall be conducted by
26 the professional person in charge of the designated ambulatory
27 facility or his or her designee acting within the scope of his or her
28 licensed profession. The assessment in a designated ambulatory
29 facility may be performed by or in consultation with an authorized
30 member of the professional staff of a designated inpatient facility
31 using telehealth if the designated inpatient facility has agreed to
32 admit the person in accordance with subdivision (a) upon a
33 determination that an involuntary admission is appropriate.

34 (3) This section shall not be construed to prevent a peace officer,
35 or an authorized professional employee of an emergency transport
36 provider acting at the direction of the peace officer, from delivering
37 individuals to a designated facility for an assessment under this
38 section. Furthermore, the assessment requirement of this section
39 shall not be construed to require peace officers or authorized
40 professional employees of emergency transport providers acting

1 at the direction of the peace officer to perform any additional duties
2 other than those specified in Sections 5150.1 and 5150.2.

3 (4) If an individual detained under subdivision (a) is first taken
4 to an emergency department of a nondesignated hospital, as defined
5 in subdivision (e) of Section 5150.10, the provisions of Article 1.1
6 (commencing with Section 5150.10) shall apply to the individual
7 during his or her stay in the emergency department of a
8 nondesignated hospital. This section does not require the peace
9 officer or authorized professional who detained the individual
10 pursuant to subdivision (a) to take or cause the individual to be
11 taken to an emergency department of a nondesignated hospital.

12 (5) Notwithstanding paragraph (2) of subdivision (j) of Section
13 5008, or any regulation, if a person detained for evaluation and
14 treatment presents or is transferred to a designated ambulatory
15 facility, and following a new determination of probable cause, the
16 professional person in charge of the designated ambulatory facility
17 or his or her designee determines that the person continues to meet
18 the criteria for detention under Section 5150 and should be admitted
19 to a designated inpatient facility for further evaluation and
20 treatment, the designated ambulatory facility shall make and
21 document good faith efforts to arrange placement for the person
22 in a designated inpatient facility. Subject to the requirements of
23 subdivision (a), if the designated ambulatory facility has been
24 unable to arrange placement for the person in a designated inpatient
25 facility within 24 hours, the designated ambulatory facility shall
26 continue to provide evaluation and treatment for the person beyond
27 24 hours in order to arrange for placement and transfer of the
28 person to a designated inpatient facility, provided the designated
29 ambulatory facility, prior to the expiration of the 24 hours, notifies
30 the county in which it is located and the mental health patients'
31 rights advocate for the county that it is continuing to detain the
32 person beyond 24 hours. The designated ambulatory facility shall
33 not transfer or send a person to an emergency department of a
34 nondesignated hospital unless the person requires examination or
35 treatment for a medical condition that is beyond the capability of
36 the designated ambulatory facility.

37 (c) Whenever a person is evaluated by an authorized professional
38 and is found to be in need of mental health services, but is not
39 admitted to the facility, all available alternative services provided

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

3 (d) If, in the judgment of the authorized professional, the person
4 cannot be properly served without being detained, the admitting
5 facility shall require an application in writing pursuant to Section
6 5150.3.

7 (e) At the time a person is taken into custody for evaluation, or
8 within a reasonable time thereafter, unless a responsible relative
9 or the guardian or conservator of the person is in possession of the
10 person’s personal property, the person taking him or her into
11 custody shall take reasonable precautions to preserve and safeguard
12 the personal property in the possession of or on the premises
13 occupied by the person. The person taking him or her into custody
14 shall then furnish to the court a report generally describing the
15 person’s property so preserved and safeguarded and its disposition,
16 in substantially the form set forth in Section 5211, except that if
17 a responsible relative or the guardian or conservator of the person
18 is in possession of the person’s property, the report shall include
19 only the name of the relative or guardian or conservator and the
20 location of the property, whereupon responsibility of the person
21 taking him or her into custody for that property shall terminate.
22 As used in this section, “responsible relative” includes the spouse,
23 parent, adult child, domestic partner, grandparent, grandchild, or
24 adult brother or sister of the person.

25 (f) (1) Each person, at the time he or she is first taken into
26 custody under this section, shall be provided, by the person who
27 takes him or her into custody, the following information orally in
28 a language or modality accessible to the person. If the person
29 cannot understand an oral advisement, the information shall be
30 provided in writing. The information shall be in substantially the
31 following form:

32
33 My name is _____ .
34 I am a _____ .
35 (peace officer/mental health professional)
36 with _____ .
37 (name of agency)
38 You are not under criminal arrest, but I am taking you for an examination by
39 mental health professionals at _____ .

1 _____
2 (name of facility)

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

4
5 (2) If taken into custody at his or her own residence, the person
6 shall also be provided the following information:

7
8 You may bring a few personal items with you, which I will have
9 to approve. Please inform me if you need assistance turning off
10 any appliance or water. You may make a phone call and leave a
11 note to tell your friends or family where you have been taken.
12

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

- 16 (1) The name of the person detained for evaluation.
- 17 (2) The name and position of the peace officer or mental health
18 professional taking the person into custody.
- 19 (3) The date the advisement was completed.
- 20 (4) Whether the advisement was completed.
- 21 (5) The language or modality used to give the advisement.
- 22 (6) If the advisement was not completed, a statement of good
23 cause, as defined by regulations of the State Department of Health
24 Care Services.

25 (h) Each person admitted to a facility designated by the county
26 for evaluation and treatment shall be given the following
27 information by admission staff of the facility. The information
28 shall be given orally and in writing and in a language or modality
29 accessible to the person. The written information shall be available
30 to the person in English and in the language that is the person's
31 primary means of communication. Accommodations for other
32 disabilities that may affect communication shall also be provided.
33 The information shall be in substantially the following form:
34

35 My name is _____.

36 My position here is _____.

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

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

3 5150.05. (a) When determining if probable cause exists to
4 take a person into custody, or cause a person to be taken into
5 custody, pursuant to Section 5150, a person who is authorized to
6 take that person, or cause that person to be taken, into custody
7 pursuant to that section shall consider available relevant
8 information about the historical course of the person’s mental
9 disorder if the authorized person determines that the information
10 has a reasonable bearing on the determination as to whether the
11 person is a danger to others, or to himself or herself, or is gravely
12 disabled as a result of the mental disorder.

13 (b) For purposes of this section, “information about the historical
14 course of the person’s mental disorder” includes evidence presented
15 by the person who has provided or is providing mental health or
16 related support services to the person subject to a determination
17 described in subdivision (a), evidence presented by one or more
18 members of the family of that person, and evidence presented by
19 the person subject to a determination described in subdivision (a)
20 or anyone designated by that person.

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

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

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

30 5150.1. (a) A peace officer or authorized professional
31 employee of an emergency transport provider acting at the direction
32 of a peace officer, seeking to transport, or having transported, a
33 person to a designated facility for assessment pursuant to
34 subdivision (a) of Section 5150 or Section 5151, shall not be
35 instructed by mental health personnel to take the person to, or keep
36 the person at, a jail solely because of the unavailability of an acute
37 bed. The peace officer or the authorized professional employee of
38 an emergency transport provider acting at the direction of the peace
39 officer, shall not be forbidden to transport the person directly to
40 the designated facility. No mental health employee from any

1 county, state, city, or any private agency providing psychiatric
2 emergency services shall interfere with a peace officer or an
3 authorized professional employee of an emergency transport
4 provider acting at the direction of a peace officer performing duties
5 under Section 5150 by preventing the peace officer from detaining
6 a person for evaluation and treatment or preventing the peace
7 officer or an authorized professional employee of an emergency
8 transport provider acting at the direction of a peace officer from
9 entering a designated facility with the person for an assessment.
10 An employee of a facility shall not require the peace officer or an
11 authorized professional employee of an emergency transport
12 provider acting at the direction of a peace officer to remove the
13 person without an assessment as a condition of allowing the peace
14 officer or an authorized professional employee of an emergency
15 transport provider acting at the direction of a peace officer to
16 depart.

17 (b) An emergency transport ~~provider, provider~~ or any certified
18 or licensed personnel of an emergency transport ~~provider, provider~~
19 *who have received training in managing persons who have been*
20 *detained for evaluation and treatment* shall not be civilly or
21 criminally liable for any of the following that may be applicable
22 to the transport of a person who has been detained for evaluation
23 and treatment:

24 (1) The continuation of the detention for evaluation and
25 treatment *in accordance with this part and other applicable law*
26 while transporting the person to a designated facility or an
27 emergency department of a nondesignated hospital at the direction
28 of a peace officer or authorized professional who detained the
29 person for evaluation and treatment.

30 (2) The continuation of the detention for evaluation and
31 treatment *in accordance with this part and other applicable law*
32 while transporting the person detained for evaluation and treatment
33 to a designated facility or an emergency department of a
34 nondesignated hospital at the direction of the treating emergency
35 professional in an emergency department of a nondesignated
36 hospital for an assessment or other service under Section 5151.

37 (c) For purposes of this section, “peace officer” means a peace
38 officer as defined in Chapter 4.5 (commencing with Section 830)
39 of Title 3 of Part 2 of the Penal Code and also includes a jailer
40 seeking to transport or transporting a person in custody to a

1 designated facility for an assessment consistent with Section 4011.6
2 or 4011.8 of the Penal Code and Section 5150.

3 *(d) Nothing in this section shall exonerate a person described*
4 *in this section from liability if that person acted with gross*
5 *negligence or willful or wanton misconduct.*

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

8 5150.2. In each county, whenever a peace officer or the
9 authorized professional employee of an emergency transport
10 provider acting at the direction of the peace officer has transported
11 a person to a designated facility for an assessment, the officer or
12 professional employee of an emergency transporter shall be
13 detained no longer than the time necessary to complete
14 documentation of the factual basis of the detention for evaluation
15 and treatment and effectuate a prompt, safe, and orderly transfer
16 of physical custody of the person.

17 SEC. 14. Section 5150.2.5 is added to the Welfare and
18 Institutions Code, to read:

19 5150.25. Nothing in this chapter supersedes or abrogates the
20 provisions governing medical control set forth in Chapter 5
21 (commencing with Section 1798) of Division 2.5 of the Health and
22 Safety Code.

23 ~~SEC. 14.~~

24 SEC. 15. Section 5150.3 is added to the Welfare and Institutions
25 Code, to read:

26 5150.3. (a) (1) The peace officer or an authorized professional
27 who takes a person into custody or otherwise initially detains a
28 person pursuant to Section 5150 shall complete and sign an
29 application for detention for evaluation and treatment, in the form
30 prescribed by subdivision (g), stating the circumstances under
31 which the person’s condition was called to the attention of the
32 peace officer or authorized professional, and stating that the peace
33 officer or authorized professional has probable cause to believe
34 that the person is, as a result of a mental health disorder, a danger
35 to others, or to himself or herself, or gravely disabled.

36 (2) The documentation shall include detailed information
37 regarding the factual circumstances and observations constituting
38 probable cause for the peace officer or authorized professional to
39 believe that the person should be detained for evaluation and
40 treatment in accordance with Section 5150. If the probable cause

1 is based on the statement of a person other than the peace officer
2 or authorized professional, the person shall be liable in a civil
3 action for intentionally giving a statement that he or she knows is
4 false.

5 (3) A designated facility or nondesignated hospital shall require
6 presentation of the application as a condition of continuation of
7 the detention for evaluation and treatment. If the application is not
8 presented to the designated facility or nondesignated hospital, as
9 applicable, the person shall be immediately released from detention
10 for evaluation and treatment.

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

14 (b) (1) If the person detained by a peace officer or authorized
15 professional is in a location other than a designated facility or
16 nondesignated hospital, the original or copy of the application for
17 detention for evaluation and treatment shall be presented to the
18 designated facility under paragraph (2) or the nondesignated
19 hospital under paragraph (3).

20 (2) If after detention under Section 5150, the person is first taken
21 to a designated facility, the original or a copy of the signed
22 application for detention for evaluation and treatment shall be
23 presented to the designated facility.

24 (3) If after detention under Section 5150, the person is first taken
25 to a nondesignated hospital, the original or a copy of the signed
26 application for detention for evaluation and treatment shall be
27 presented to the nondesignated hospital. If the person is
28 subsequently transferred to a designated facility, the nondesignated
29 hospital shall deliver the original or a copy of the signed application
30 for detention for evaluation and treatment to the designated facility.
31 If the person is discharged from the nondesignated hospital under
32 Section 5150.15 or 5150.16, without a transfer to a designated
33 facility, the nondesignated hospital shall maintain the original or
34 a copy of the original signed application for detention for
35 evaluation and treatment.

36 (c) If a person detained for evaluation and treatment is
37 subsequently released from detention for evaluation and treatment
38 pursuant to Section 5150.15 or 5151, the application for detention
39 for evaluation and treatment in the possession of a designated
40 facility or nondesignated hospital shall be retained for the period

1 of time required by the medical records retention policy of the
2 designated facility or nondesignated hospital.

3 (d) The determination of a peace officer or authorized
4 professional to detain a person under Section 5150 and complete
5 and sign an application for detention for evaluation and treatment,
6 shall be based solely on whether the person meets the criteria for
7 detention for evaluation and treatment as set forth in Section 5150.
8 The determination shall not be delayed, denied, or refused based
9 on the availability of beds or services at designated facilities to
10 which a person may be taken under this article.

11 (e) If a person detained for evaluation and treatment under
12 Section 5150 is transported by a professional employee of an
13 emergency transport provider to a designated facility or
14 nondesignated hospital at the request of a peace officer or an
15 authorized professional, the peace officer or authorized professional
16 shall give the application for detention for evaluation and treatment
17 to the professional employee of the emergency transport provider
18 if the peace officer or authorized professional does not accompany
19 the person to the designated facility or nondesignated hospital.

20 (f) A copy of the application for detention for evaluation and
21 treatment shall be given to an emergency transport provider if the
22 person detained for evaluation and treatment is transported from
23 a nondesignated hospital to a designated facility or from a
24 designated facility to another designated facility.

25 (g) Not later than July 1, 2016, the department shall adopt and
26 make available a standardized form of the application for detention
27 for evaluation and treatment that shall be used by peace officers
28 and authorized professionals to apply for detention of a person for
29 evaluation and treatment under Section 5150 and by authorized
30 professionals to release a person from detention for evaluation and
31 treatment pursuant to Section 5150.15 or 5151. In developing the
32 form, the department shall request comments from stakeholders
33 including the organizations described in subdivision (b) of Section
34 5400. The form of the application for detention for evaluation and
35 treatment shall, at a minimum, provide all of the following:

36 (1) A description of the person's behavior and other relevant
37 facts that provide the basis for probable cause under Sections 5150
38 and 5150.05 of the person's detainment for evaluation and
39 treatment.

1 (2) For persons detained for evaluation and treatment who are
2 first taken to an emergency department of a nondesignated hospital,
3 documentation of the facts and conclusions that provide the basis
4 for the determination of medical clearance, excluding a psychiatric
5 emergency medical condition, by the emergency professional
6 treating the person in the emergency department to transfer the
7 person to a designated facility.

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

12 (4) Determination of the facts and conclusions that support the
13 determination by an authorized professional authorized to release
14 a person from detention in accordance with Section 5150.14 or
15 5151.

16 (5) Request by a peace officer under Section 5152.1 for
17 notification of the person’s release or discharge by a designated
18 facility or nondesignated hospital.

19 (6) All of the information required by subdivision (f) of Section
20 5150.

21 ~~SEC. 15.~~

22 *SEC. 16.* Section 5150.4 of the Welfare and Institutions Code
23 is repealed.

24 ~~SEC. 16.~~

25 *SEC. 17.* Article 1.1 (commencing with Section 5150.10) is
26 added to Chapter 2 of Part 1 of Division 5 of the Welfare and
27 Institutions Code, to read:

28
29 Article 1.1. Persons Detained in Nondesignated Hospitals

30
31 5150.10. Unless the context otherwise requires, the following
32 definitions shall govern the construction of this article:

33 (a) “Emergency department of a nondesignated hospital” means
34 a basic, comprehensive, or standby emergency medical service
35 that is approved by the State Department of Public Health as a
36 special or supplemental service of a nondesignated hospital. For
37 purposes of this part, an emergency department of a nondesignated
38 hospital shall include an observation or similar unit of the hospital
39 that meets both of the following criteria:

- 1 (1) The unit is operated under the direction and policies of the
2 emergency department.
- 3 (2) The unit provides continuing emergency services and care
4 to patients prior to an inpatient admission, transfer, or discharge.
- 5 (b) “Emergency professional” means either of the following:
 - 6 (1) A physician and surgeon who is board certified or pursuing
7 board certification in emergency medicine, or a qualified licensed
8 person, as defined in subdivision (g), during any scheduled period
9 that he or she is on duty to provide medical screening and treatment
10 of patients in an emergency department of a nondesignated hospital.
 - 11 (2) A physician and surgeon, or a qualified licensed person, as
12 defined in subdivision (g), during any scheduled period that he or
13 she is on duty to provide medical screening and treatment of
14 patients in the emergency department of a nondesignated hospital
15 that is a critical access hospital within the meaning of Section
16 1250.7 of the Health and Safety Code. A physician and surgeon
17 on duty under this paragraph shall include a physician and surgeon
18 on call for a standby emergency medical service who is responsible
19 to provide professional coverage for the emergency department.
20 A physician and surgeon on duty under this paragraph does not
21 include a physician and surgeon who is providing on-call specialty
22 coverage services to the emergency department of a nondesignated
23 hospital, unless the physician and surgeon is an emergency
24 professional under paragraph (1).
- 25 (c) “Emergency services and care” has the same meaning as in
26 subdivision (a) of Section 1317.1 of the Health and Safety Code.
- 27 (d) “EMTALA” means the Emergency Medical Treatment and
28 Labor Act, and regulations adopted pursuant thereto, as defined
29 in Section 1395dd of Title 42 of the United States Code.
- 30 (e) “Nondesignated hospital” means a general acute care
31 hospital, as defined in subdivision (a) of Section 1250 of the Health
32 and Safety Code or an acute psychiatric hospital, as defined in
33 subdivision (b) of Section 1250 of the Health and Safety Code,
34 that is not a designated facility.
- 35 (f) “Psychiatric emergency medical condition” has the same
36 meaning as in subdivision (k) of Section 1317.1 of the Health and
37 Safety Code.
- 38 (g) “Psychiatric professional” means a physician and surgeon
39 who is board certified or pursuing board certification in psychiatry

1 and who is providing specialty services to the emergency
2 department of a nondesignated hospital.

3 (h) “Qualified licensed person” means a licensed person
4 designated by the medical staff and governing body of a
5 nondesignated hospital to provide emergency services and care,
6 to the extent permitted by applicable law, in an emergency
7 department of the nondesignated hospital under the supervision
8 of a physician and surgeon.

9 (i) “Stabilized” has the same meaning as in subdivision (j) of
10 Section 1317.1 of the Health and Safety Code.

11 5150.11. (a) The Legislature finds and declares all of the
12 following:

13 (1) A person who has been detained for evaluation and treatment
14 pursuant to Section 5150 should be taken to a designated facility
15 rather than an emergency department of a nondesignated hospital.

16 (2) A person who has been detained for evaluation and treatment
17 pursuant to Section 5150 should be detained in an emergency
18 department of a nondesignated hospital only for the time necessary
19 to provide required emergency services and care and obtain medical
20 clearance, unless the person requires an admission for inpatient
21 services.

22 (3) A person who has been detained for evaluation and treatment
23 pursuant to Section 5150 has the right to receive a prompt
24 assessment to determine the appropriateness of the detention and
25 the need for evaluation and treatment at a designated facility.

26 (b) It is also the intent of the Legislature that nothing in this
27 chapter shall be construed to require a peace officer or any other
28 authorized professional to take a person detained for evaluation
29 and treatment to an emergency department of a nondesignated
30 hospital instead of taking the person to a designated facility, unless
31 the peace officer or authorized professional reasonably determines
32 that the person is in need of emergency care and services that
33 should be provided at an emergency department of a nondesignated
34 hospital before the person is transported to a designated facility.

35 5150.12. (a) This section shall apply to a person who has been
36 detained for evaluation and treatment by a peace officer or an
37 authorized professional and is taken to an emergency department
38 of a nondesignated hospital for emergency services and care.

39 (b) While the person is in the emergency department of the
40 nondesignated hospital, the detention of the person for evaluation

1 and treatment shall continue, unless the person is released from
2 detention pursuant to Section 5150.15 or 5150.16.

3 5150.13. (a) This section shall apply if, during a person's
4 examination or treatment in an emergency department, there is a
5 need for a determination of probable cause for the detention of the
6 person for evaluation and treatment.

7 (b) If a person who has not been detained for evaluation and
8 treatment has signs or symptoms, in the judgment of the treating
9 emergency professional, that indicate probable cause for detention
10 for evaluation and treatment, the person shall have the right to a
11 prompt probable cause determination in accordance with any of
12 the following:

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

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

20 (B) The local or regional liaison shall advise the nondesignated
21 hospital within 30 minutes of the time of the initial contact whether
22 an authorized professional can perform the probable cause
23 determination within two hours from the time of the initial contact
24 with the local or regional liaison.

25 (C) The probable cause determination shall be based solely on
26 the criteria for detaining a person for evaluation and treatment.
27 The probable cause determination shall not consider the availability
28 of beds or services at designated facilities within or outside of the
29 county.

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

32 (3) The treating emergency professional may conduct a probable
33 cause determination and, upon a finding of probable cause, detain
34 the person for evaluation and treatment in accordance with Sections
35 5150 and 5150.3.

36 (c) If the person is detained for evaluation and treatment
37 pursuant to this section, the detention shall continue during his or
38 her stay in the emergency department of a nondesignated hospital,
39 unless the person is released from detention pursuant to Section

1 5150.15 or 5150.16 or the detention ends by reason of the
2 expiration of 72 hours pursuant to subdivision (a) of Section 5150.
3 5150.14. (a) This section shall apply to a person who is first
4 detained pursuant to Section 5150 for evaluation and treatment in
5 a nondesignated hospital emergency department or has been
6 detained pursuant to Section 5150 for evaluation and treatment
7 and first taken to an emergency department of a nondesignated
8 hospital.

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

12 (2) If the person was detained for evaluation and treatment and
13 taken to the emergency department of the nondesignated hospital
14 pursuant to Section 5150.12, the notification shall occur after the
15 hospital has performed an initial medical screening of the person
16 in accordance with paragraphs (1) and (2) of subdivision (a) of
17 Section 1317.1 of the Health and Safety Code.

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

22 (c) The notification to the county shall be made using the
23 24-hour toll-free telephone number established by the county's
24 mental health program for psychiatric emergency services and
25 crisis stabilization if the county's mental health program has a
26 24-hour toll-free telephone number in operation on January 1,
27 2016, for this purpose. The notification shall be documented in
28 the patient's medical record.

29 (d) The nondesignated hospital shall advise the county of all of
30 the following:

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

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

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

36 (e) The notification to the county under this section shall not
37 be required if the treating emergency professional determines that
38 the person will be admitted, pursuant to Section 5150.16, to an
39 acute care bed of a nondesignated hospital for the primary purpose

1 of receiving acute inpatient services for a medical condition that
2 is in addition to the person’s psychiatric condition.

3 5150.15. (a) This section shall establish a process for releasing
4 from detention a person who has been detained for evaluation and
5 treatment during the time that the person is detained in the
6 emergency department of a nondesignated hospital.

7 (b) If the treating emergency professional determines that there
8 is no longer probable cause to continue the detention for evaluation
9 and treatment, the treating emergency professional may initiate a
10 followup probable cause determination to determine whether the
11 person may be released from detention for evaluation and
12 treatment. The followup probable cause determination shall be
13 made in accordance with either of the following:

14 (1) The hospital may contact the county, or a local or regional
15 liaison if authorized by the county, to arrange for an authorized
16 professional to perform a followup probable cause determination
17 to determine whether the person may be released from detention
18 for evaluation and treatment. If a county or a local or regional
19 liaison cannot arrange for an authorized professional to make the
20 determination within two hours of the initial call to the county or
21 the local or regional liaison and there is no probable cause for
22 detention, the treating emergency professional may perform a
23 followup probable cause determination to determine whether the
24 person may be released from detention for evaluation and
25 treatment.

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

30 (c) The determination under this section to release a person from
31 detention for evaluation and treatment shall be based solely on
32 whether there is probable cause to continue the detention for
33 evaluation and treatment. The determination to continue the
34 detention or to release the person from detention shall not be based
35 on the availability of beds or services at designated facilities within
36 or outside of the county, or on anything other than whether there
37 is probable cause for detention.

38 (d) The followup probable cause determination under this section
39 may be conducted by an authorized professional utilizing
40 telehealth.

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

3 5150.16. (a) This section shall apply to a person detained for
4 evaluation and treatment who is admitted to a nonpsychiatric unit
5 of a general acute care hospital for acute medical services. This
6 section shall apply to all general acute care hospitals, including
7 general acute care hospitals that are designated facilities.

8 (b) If the person detained for evaluation and treatment is
9 admitted to a nonpsychiatric unit of a general acute care hospital
10 for the primary purpose of receiving acute inpatient services for a
11 medical condition that is in addition to the person's psychiatric
12 condition, the effect on the detention for evaluation and treatment
13 while receiving acute medical services shall be as follows:

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

18 (2) If the hospital offers to provide assessment, evaluation, and
19 crisis intervention services and the person refuses or is unable to
20 consent to the services on a voluntary basis in addition to acute
21 medical services, the detention for evaluation and treatment shall
22 continue in effect during the acute hospital stay, for so long as
23 there continues to be probable cause for the detention.

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

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

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

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

34 (2) The person is awaiting a transfer to a designated facility and
35 is placed in an acute bed of the nondesignated hospital for the
36 purpose of securing the protection of the person or other persons,
37 or both, in the nondesignated hospital pending the transfer of the
38 person to a designated facility.

39 (e) In all cases described in subdivision (b), if the discharge
40 plan for the patient provides for followup evaluation and treatment

1 at a psychiatric facility, the patient shall be advised of the
2 recommended need for the followup evaluation and treatment.

3 (f) If the person is not able or willing to accept treatment on a
4 voluntary basis, or to accept the referral or transfer to a psychiatric
5 facility, the hospital shall obtain a new probable cause
6 determination for detention for evaluation and treatment pursuant
7 to Section 5150 in order to take or cause the person to be taken to
8 a designated facility. Upon request by the hospital, a county shall
9 arrange for an authorized professional to conduct a probable cause
10 determination in a timely manner, which may be performed by the
11 authorized professional utilizing telehealth.

12 5150.17. (a) This section, together with Sections 5150.18 and
13 5150.19, shall apply to the placement in a designated facility of a
14 person in a nondesignated hospital emergency department who
15 has been detained for evaluation and treatment.

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

19 (c) Prior to placement in a designated ambulatory facility,
20 personnel at the designated ambulatory facility shall confirm
21 whether the facility can meet the needs of the person within the
22 scope of its designation and capability.

23 5150.18. (a) This section shall apply to the placement in a
24 designated facility for a person described in Section 5150.17 if the
25 person has a psychiatric emergency medical condition.

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

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

33 (2) The treating emergency professional shall determine the
34 mode of transportation, including personnel and equipment, that
35 are appropriate for the transport of the person to the designated
36 facility.

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

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

3 (c) If the person, in the judgment of the treating emergency
4 professional, does not have a psychiatric emergency medical
5 condition, the placement of the person in a designated facility for
6 evaluation and treatment shall be deemed to be made for a medical
7 reason within the meaning of Section 1317.2 of the Health and
8 Safety Code.

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

14 (e) If a person detained for evaluation and treatment is in the
15 emergency department of a nondesignated hospital, or in a bed not
16 licensed for psychiatric care, the nondesignated hospital shall make
17 good faith efforts to arrange placement for the person in a
18 designated facility and, pending placement, shall provide further
19 screening, treatment, and monitoring consistent with the needs of
20 the patient and within the capacity of the hospital.

21 5150.19. (a) This section describes assistance that may be
22 available to an emergency department of a nondesignated hospital
23 for the placement in a designated facility of a person described in
24 Section 5150.17.

25 (b) If a person has been taken to or detained by a
26 county-authorized professional in the emergency department of
27 the nondesignated hospital, the authorized professional shall assist
28 the nondesignated hospital in arranging for the placement of the
29 person with an appropriate designated facility.

30 (c) If a person is detained for evaluation and treatment by a
31 peace officer or a treating emergency professional in the emergency
32 department of the nondesignated hospital, the hospital may contact
33 the local or regional liaison, if authorized for the county in which
34 the nondesignated hospital is located, to assist the hospital in
35 arranging for the placement of the person in a designated facility,
36 as follows:

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

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

5 (d) A nondesignated hospital shall make efforts to obtain
6 placement of the person in a designated facility without first
7 contacting the county or the local or regional liaison under this
8 section or in addition to requesting assistance that may be provided
9 by the county or the local or regional liaison.

10 5150.20. (a) The determination of probable cause to detain a
11 person for evaluation and treatment shall be independent of a
12 determination as to whether the person has a psychiatric emergency
13 medical condition for the provision of emergency services and
14 care.

15 (b) A determination of probable cause to detain a person for
16 evaluation and treatment, whether by a peace officer or an
17 authorized professional, shall not be deemed to constitute a
18 psychiatric emergency medical condition unless a treating
19 emergency professional or psychiatric professional has determined
20 that the person has a psychiatric emergency medical condition.

21 (c) A determination by a treating emergency professional or a
22 psychiatric professional that a person has a psychiatric emergency
23 medical condition shall not be deemed to constitute probable cause
24 under Section 5150 that the person may be detained for evaluation
25 and treatment.

26 (d) A determination by a treating emergency professional or a
27 psychiatric professional that a person detained for evaluation and
28 treatment does not have a psychiatric emergency medical condition,
29 or that the person's psychiatric emergency medical condition is
30 stabilized, shall not be deemed to constitute a release of the person
31 from detention for evaluation and treatment.

32 5150.21. (a) A nondesignated hospital and the professional
33 staff of the nondesignated hospital shall not be civilly or criminally
34 liable for the transfer of a person detained for evaluation and
35 treatment to a designated facility in accordance with this article.

36 (b) The peace officer or authorized professional responsible for
37 the detention of the person for evaluation and treatment who
38 transfers the custody of the person to an emergency professional
39 of a nondesignated hospital, shall not be civilly or criminally liable
40 for any of the following:

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

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

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

9 *(c) Nothing in this section shall exonerate a person described*
10 *in this section from liability if that person acted with gross*
11 *negligence or willful or wanton misconduct.*

12 ~~SEC. 17. Section 5150.25 is added to the Welfare and~~
13 ~~Institutions Code, to read:~~

14 ~~5150.25. Nothing in this chapter supersedes or abrogates the~~
15 ~~provisions governing medical control set forth in Chapter 5~~
16 ~~(commencing with Section 1798) of Division 2.5 of the Health~~
17 ~~and Safety Code.~~

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

21
22 Article 1.2. Voluntary Patients
23

24 5150.30. (a) A provider of ambulance services licensed by the
25 Department of the California Highway Patrol or operated by a
26 public safety agency, and the employees of those providers who
27 are certified or licensed under Section 1797.56 of the Health and
28 Safety Code, shall be authorized to transport a person who is in a
29 hospital or facility on a voluntary basis to a designated facility for
30 psychiatric treatment. This section shall apply to transfers from
31 any type of facility, including nondesignated hospitals and other
32 facilities.

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

37 (c) Not later than July 1, 2016, the department shall adopt and
38 make available a standardized form that will enable voluntary
39 patients to consent to transfer between facilities by a provider of
40 ambulance services. The form shall be provided to voluntary

1 patients to sign before the transfer of the patient. The form shall
2 be kept in the patient’s medical record. Copies of the form shall
3 be given to the patient and the provider of ambulance services.

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

9 (e) No person shall require a person to be subject to detention
10 for evaluation and treatment for the purpose of authorizing or
11 providing evaluation, treatment, or admission to a facility, or as a
12 condition for providing or paying for medical services, care, or
13 treatment, including emergency services and care, unless there is
14 probable cause under Section 5150 to detain the person for
15 evaluation and treatment and the person cannot be properly served
16 on a voluntary basis. Nothing in this part shall be construed as
17 preventing a person subject to detention for evaluation and
18 treatment from receiving evaluation or treatment on a voluntary
19 basis unless there has been an adjudication under this part that the
20 person lacks the capacity to do so.

21 SEC. 19. The heading of Article 1.3 (commencing with Section
22 5151) is added to Chapter 2 of Part 1 of Division 5 of the Welfare
23 and Institutions Code, to read:

24

25 Article 1.3. Admission to a Designated Facility

26

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

29 5151. (a) If a designated facility for evaluation and treatment
30 admits the person, it may detain him or her for evaluation and
31 treatment for a period not to exceed 72 hours from the time that
32 the person was initially detained pursuant to subdivision (a) of
33 Section 5150.

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

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

1 5151.1. If the assessment results in a determination that the
2 person is in need of mental health services, but he or she is not
3 admitted to the facility, the designated facility shall provide the
4 person with appropriate referrals and a list of alternative services
5 and other resources that are appropriate to the needs of the person.
6 The alternative services and other resources shall include both of
7 the following, as applicable:

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

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

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

14 5151.2. (a) Each county shall establish disposition procedures
15 and guidelines with local law enforcement agencies for the safe
16 and orderly transfer of persons detained for evaluation and
17 treatment by a peace officer, who has requested notification under
18 Section 5152.1 of the person's release from detention for evaluation
19 and treatment in accordance with Section 5150.15, 5150.16, or
20 5151. The disposition procedures and guidelines shall include
21 persons who are not admitted for evaluation and treatment and
22 who decline alternative mental health services and persons who
23 have a criminal detention pending.

24 (b) The disposition procedures and guidelines should include
25 interagency communication between law enforcement agencies
26 located within the county, as well as law enforcement agencies
27 located in other counties, that take or arrange to take persons
28 detained for evaluation and treatment under Section 5150 to health
29 facilities within the county. The disposition procedures and
30 guidelines, including updates, shall be disseminated to designated
31 facilities and nondesignated hospitals.

32 SEC. 23. Section 5152.1 of the Welfare and Institutions Code
33 is amended to read:

34 5152.1. (a) A designated facility or nondesignated hospital
35 shall notify the county mental health director, or the director's
36 designee, and the law enforcement agency that employs the peace
37 officer who makes the application for detention for 72-hour
38 evaluation and treatment pursuant to Section 5150, if the person
39 admitted pursuant to Section 5152 will be discharged after a
40 72-hour inpatient admission, when the person is not admitted by

1 the designated facility, when the person discharged before the
2 expiration of the 72-hour inpatient admission, when the person
3 discharged from detention for evaluation and treatment is released
4 under Section 5150.15, 5150.16, or 5151, or if the person elopes
5 from a designated facility or nondesignated hospital, if both of the
6 following conditions apply:

7 (1) The peace officer who made the application for detention
8 for evaluation and treatment requests notification of the person's
9 release or discharge at the time he or she makes the application
10 for detention for evaluation and treatment and the peace officer
11 certified at that time in writing that the person has been detained
12 for evaluation and treatment under circumstances which, based
13 upon an allegation of facts regarding actions witnessed by the
14 officer or another person, would support the filing of a criminal
15 complaint. The application for detention for evaluation and
16 treatment shall include one or more methods of contacting a person
17 at the law enforcement agency who may receive the notification.

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

20 (b) If a police officer, law enforcement agency, or designee of
21 the law enforcement agency, possesses any record of information
22 obtained pursuant to the notification requirements of this section,
23 the officer, agency, or designee shall destroy that record two years
24 after receipt of notification.

25 (c) The notice required by this section shall be made prior to
26 the release or discharge of the person, if possible. The designated
27 facility or nondesignated hospital shall consider the distance from
28 the law enforcement agency to the location of the designated
29 facility or nondesignated hospital in giving the notice. The peace
30 officer or other representative of the law enforcement agency
31 receiving the notice shall promptly advise the designated facility
32 or nondesignated hospital whether the peace officer or other law
33 enforcement agency representative shall take custody of the person
34 upon his or her release or discharge from the designated facility
35 or nondesignated hospital and, if so, the time at which the peace
36 officer or other law enforcement agency representative will be
37 present at the designated facility or nondesignated hospital.

38 (d) Nothing in this section shall be construed to require the
39 designated facility or nondesignated hospital to delay the discharge

1 of a person for purposes of awaiting the arrival of the peace officer
2 or another representative of the law enforcement agency.

3 SEC. 24. Section 5152.2 of the Welfare and Institutions Code
4 is repealed.

5 SEC. 25. Section 5152.2 is added to the Welfare and
6 Institutions Code, to read:

7 5152.2. In addition to the request for notification set forth in
8 the application for detention for evaluation and treatment, each
9 law enforcement agency shall arrange with the county mental
10 health director for a method for designated facilities and
11 nondesignated hospitals to give prompt notification to peace
12 officers under Section 5152.1. The methods for notification for
13 each county shall be disseminated by the county to the designated
14 facilities and nondesignated hospitals located within the county.

15 SEC. 26. Section 5153 of the Welfare and Institutions Code is
16 amended to read:

17 5153. Whenever possible, officers charged with apprehension
18 of persons pursuant to this chapter shall dress in plain clothes and
19 travel in unmarked vehicles.

20 SEC. 27. Section 5270.50 of the Welfare and Institutions Code
21 is amended to read:

22 5270.50. (a) Notwithstanding Section 5113, if the provisions
23 of Section 5270.35 have been met, the professional person in
24 charge of the facility providing intensive treatment, his or her
25 designee, the medical director of the facility or his or her designee
26 described in Section 5270.53, the psychiatrist directly responsible
27 for the person's treatment, or the psychologist shall not be held
28 civilly or criminally liable for any action by a person released
29 before the end of 30 days pursuant to this article.

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

37 (c) The attorney or advocate representing the person, the
38 court-appointed commissioner or referee, the certification review
39 hearing officer conducting the certification review hearing, and
40 the peace officer responsible for detaining the person shall not be

- 1 civilly or criminally liable for any action by a person released at
- 2 or before the end of 30 days pursuant to this article.

O