

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1764**

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**Introduced by Assembly Member Waldron**

February 3, 2016

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An act to amend Section ~~5346~~ 5348 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1764, as amended, Waldron. Mental health services: assisted outpatient treatment.

Existing law, the Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, until January 1, 2017, grants each county the authority to offer certain assisted outpatient treatment services for its residents by adopting a resolution or through the county budget process and by making a finding that no mental health program, as specified, may be reduced as a result of implementation. Under that law, participating counties are required to ~~provide~~ *offer* prescribed assisted outpatient *treatment* services, ~~including~~ *including, among other things*, a service planning and delivery ~~process, that are client-directed and employ psychosocial rehabilitation and recovery principles.~~ *process and a mental health personal services coordinator, as specified.* Existing law authorizes participating counties to pay for the services provided from moneys distributed to the counties from various continuously appropriated funds, including the Mental Health Services Fund when included in a county plan, as specified.

Existing law authorizes designated persons to request the county behavioral health director to file a petition in the superior court for an order for assisted outpatient treatment, for an initial period not to exceed

6 months, for a person who meets specified criteria. Existing law requires the county behavioral health director to investigate the appropriateness of filing the petition. Existing law also provides specified rights to a person who is the subject of the petition. *Existing law requires participating counties to also offer the services described above on a voluntary basis.*

~~This bill would make technical, nonsubstantive changes to those provisions.~~

*This bill would authorize participating counties to agree to act jointly to offer, or to contract with each other to offer, assisted outpatient treatment services pursuant to these provisions, subject to the approval of the State Department of Health Care Services. The bill would provide that the agreement may include all or a portion of those services and would require a county that is a party to the agreement to separately offer required services that are not included in the agreement.*

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

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

1     *SECTION 1. Section 5348 of the Welfare and Institutions Code*  
2     *is amended to read:*

3     5348. (a) For purposes of subdivision (e) of Section 5346, a  
4     county that chooses to provide assisted outpatient treatment  
5     services pursuant to this article shall offer assisted outpatient  
6     treatment services including, but not limited to, all of the following:

7     (1) Community-based, mobile, multidisciplinary, highly trained  
8     mental health teams that use high staff-to-client ratios of no more  
9     than 10 clients per team member for those subject to court-ordered  
10    services pursuant to Section 5346.

11    (2) A service planning and delivery process that includes the  
12    following:

13    (A) Determination of the numbers of persons to be served and  
14    the programs and services that will be provided to meet their needs.  
15    The local director of mental health shall consult with the sheriff,  
16    the police chief, the probation officer, the mental health board,  
17    contract agencies, and family, client, ethnic, and citizen  
18    constituency groups as determined by the director.

19    (B) Plans for services, including outreach to families whose  
20    severely mentally ill adult is living with them, design of mental

1 health services, coordination and access to medications, psychiatric  
2 and psychological services, substance abuse services, supportive  
3 housing or other housing assistance, vocational rehabilitation, and  
4 veterans' services. Plans shall also contain evaluation strategies,  
5 which shall consider cultural, linguistic, gender, age, and special  
6 needs of minorities and those based on any characteristic listed or  
7 defined in Section 11135 of the Government Code in the target  
8 populations. Provision shall be made for staff with the cultural  
9 background and linguistic skills necessary to remove barriers to  
10 mental health services as a result of having  
11 limited-English-speaking ability and cultural differences.  
12 Recipients of outreach services may include families, the public,  
13 primary care physicians, and others who are likely to come into  
14 contact with individuals who may be suffering from an untreated  
15 severe mental illness who would be likely to become homeless if  
16 the illness continued to be untreated for a substantial period of  
17 time. Outreach to adults may include adults voluntarily or  
18 involuntarily hospitalized as a result of a severe mental illness.

19 (C) Provision for services to meet the needs of persons who are  
20 physically disabled.

21 (D) Provision for services to meet the special needs of older  
22 adults.

23 (E) Provision for family support and consultation services,  
24 parenting support and consultation services, and peer support or  
25 self-help group support, where appropriate.

26 (F) Provision for services to be client-directed and that employ  
27 psychosocial rehabilitation and recovery principles.

28 (G) Provision for psychiatric and psychological services that  
29 are integrated with other services and for psychiatric and  
30 psychological collaboration in overall service planning.

31 (H) Provision for services specifically directed to seriously  
32 mentally ill young adults 25 years of age or younger who are  
33 homeless or at significant risk of becoming homeless. These  
34 provisions may include continuation of services that still would  
35 be received through other funds had eligibility not been terminated  
36 as a result of age.

37 (I) Services reflecting special needs of women from diverse  
38 cultural backgrounds, including supportive housing that accepts  
39 children, personal services coordinator therapeutic treatment, and  
40 substance treatment programs that address gender-specific trauma

1 and abuse in the lives of persons with mental illness, and vocational  
2 rehabilitation programs that offer job training programs free of  
3 gender bias and sensitive to the needs of women.

4 (J) Provision for housing for clients that is immediate,  
5 transitional, permanent, or all of these.

6 (K) Provision for clients who have been suffering from an  
7 untreated severe mental illness for less than one year, and who do  
8 not require the full range of services, but are at risk of becoming  
9 homeless unless a comprehensive individual and family support  
10 services plan is implemented. These clients shall be served in a  
11 manner that is designed to meet their needs.

12 (3) Each client shall have a clearly designated mental health  
13 personal services coordinator who may be part of a  
14 multidisciplinary treatment team who is responsible for providing  
15 or assuring needed services. Responsibilities include complete  
16 assessment of the client's needs, development of the client's  
17 personal services plan, linkage with all appropriate community  
18 services, monitoring of the quality and followthrough of services,  
19 and necessary advocacy to ensure each client receives those  
20 services that are agreed to in the personal services plan. Each client  
21 shall participate in the development of his or her personal services  
22 plan, and responsible staff shall consult with the designated  
23 conservator, if one has been appointed, and, with the consent of  
24 the client, shall consult with the family and other significant  
25 persons as appropriate.

26 (4) The individual personal services plan shall ensure that  
27 persons subject to assisted outpatient treatment programs receive  
28 age-appropriate, gender-appropriate, and culturally appropriate  
29 services, to the extent feasible, that are designed to enable  
30 recipients to:

31 (A) Live in the most independent, least restrictive housing  
32 feasible in the local community, and, for clients with children, to  
33 live in a supportive housing environment that strives for  
34 reunification with their children or assists clients in maintaining  
35 custody of their children as is appropriate.

36 (B) Engage in the highest level of work or productive activity  
37 appropriate to their abilities and experience.

38 (C) Create and maintain a support system consisting of friends,  
39 family, and participation in community activities.

1 (D) Access an appropriate level of academic education or  
2 vocational training.

3 (E) Obtain an adequate income.

4 (F) Self-manage their illnesses and exert as much control as  
5 possible over both the day-to-day and long-term decisions that  
6 affect their lives.

7 (G) Access necessary physical health care and maintain the best  
8 possible physical health.

9 (H) Reduce or eliminate serious antisocial or criminal behavior,  
10 and thereby reduce or eliminate their contact with the criminal  
11 justice system.

12 (I) Reduce or eliminate the distress caused by the symptoms of  
13 mental illness.

14 (J) Have freedom from dangerous addictive substances.

15 (5) The individual personal services plan shall describe the  
16 service array that meets the requirements of paragraph (4), and to  
17 the extent applicable to the individual, the requirements of  
18 paragraph (2).

19 (b) A county that provides assisted outpatient treatment services  
20 pursuant to this article also shall offer the same services on a  
21 voluntary basis.

22 *(c) Counties that authorize the application of this article*  
23 *pursuant to Section 5349 may agree to act jointly to offer, or to*  
24 *contract with each other to offer, assisted outpatient treatment*  
25 *services pursuant to this article, subject to the approval of the*  
26 *State Department of Health Care Services. The agreement may*  
27 *include all or a portion of the assisted outpatient treatment services*  
28 *offered pursuant to this article. A county that is a party to the*  
29 *agreement shall separately offer assisted outpatient treatment*  
30 *services that are not included in the agreement, in accordance*  
31 *with this article.*

32 ~~(e)~~

33 (d) Involuntary medication shall not be allowed absent a separate  
34 order by the court pursuant to Sections 5332 to 5336, inclusive.

35 ~~(d)~~

36 (e) A county that operates an assisted outpatient treatment  
37 program pursuant to this article shall provide data to the State  
38 Department of Health Care Services and, based on the data, the  
39 department shall report to the Legislature on or before May 1 of  
40 each year in which the county provides services pursuant to this

1 article. The report shall include, at a minimum, an evaluation of  
2 the effectiveness of the strategies employed by each program  
3 operated pursuant to this article in reducing homelessness and  
4 hospitalization of persons in the program and in reducing  
5 involvement with local law enforcement by persons in the program.  
6 The evaluation and report shall also include any other measures  
7 identified by the department regarding persons in the program and  
8 all of the following, based on information that is available:

9 (1) The number of persons served by the program and, of those,  
10 the number who are able to maintain housing and the number who  
11 maintain contact with the treatment system.

12 (2) The number of persons in the program with contacts with  
13 local law enforcement, and the extent to which local and state  
14 incarceration of persons in the program has been reduced or  
15 avoided.

16 (3) The number of persons in the program participating in  
17 employment services programs, including competitive employment.

18 (4) The days of hospitalization of persons in the program that  
19 have been reduced or avoided.

20 (5) Adherence to prescribed treatment by persons in the program.

21 (6) Other indicators of successful engagement, if any, by persons  
22 in the program.

23 (7) Victimization of persons in the program.

24 (8) Violent behavior of persons in the program.

25 (9) Substance abuse by persons in the program.

26 (10) Type, intensity, and frequency of treatment of persons in  
27 the program.

28 (11) Extent to which enforcement mechanisms are used by the  
29 program, when applicable.

30 (12) Social functioning of persons in the program.

31 (13) Skills in independent living of persons in the program.

32 (14) Satisfaction with program services both by those receiving  
33 them and by their families, when relevant.

34 ~~SECTION 1. Section 5346 of the Welfare and Institutions Code~~  
35 ~~is amended to read:~~

36 ~~5346. (a) In any county in which services are available as~~  
37 ~~provided in Section 5348, a court may order a person who is the~~  
38 ~~subject of a petition filed pursuant to this section to obtain assisted~~  
39 ~~outpatient treatment if the court finds, by clear and convincing~~  
40 ~~evidence, that the facts stated in the verified petition filed in~~

1 accordance with this section are true and establish that all of the  
2 requisite criteria set forth in this section are met, including, but  
3 not limited to, each of the following:

4 (1) The person is 18 years of age or older.

5 (2) The person is suffering from a mental illness as defined in  
6 paragraphs (2) and (3) of subdivision (b) of Section 5600.3.

7 (3) There has been a clinical determination that the person is  
8 unlikely to survive safely in the community without supervision.

9 (4) The person has a history of lack of compliance with  
10 treatment for his or her mental illness, in that at least one of the  
11 following is true:

12 (A) The person's mental illness has, at least twice within the  
13 last 36 months, been a substantial factor in necessitating  
14 hospitalization, or receipt of services in a forensic or other mental  
15 health unit of a state correctional facility or local correctional  
16 facility, not including any period during which the person was  
17 hospitalized or incarcerated immediately preceding the filing of  
18 the petition.

19 (B) The person's mental illness has resulted in one or more acts  
20 of serious and violent behavior toward himself or herself or  
21 another, or threats, or attempts to cause serious physical harm to  
22 himself or herself or another within the last 48 months, not  
23 including any period in which the person was hospitalized or  
24 incarcerated immediately preceding the filing of the petition.

25 (5) The person has been offered an opportunity to participate  
26 in a treatment plan by the director of the local mental health  
27 department, or his or her designee, provided the treatment plan  
28 includes all of the services described in Section 5348, and the  
29 person continues to fail to engage in treatment.

30 (6) The person's condition is substantially deteriorating.

31 (7) Participation in the assisted outpatient treatment program  
32 would be the least restrictive placement necessary to ensure the  
33 person's recovery and stability.

34 (8) In view of the person's treatment history and current  
35 behavior, the person is in need of assisted outpatient treatment in  
36 order to prevent a relapse or deterioration that would be likely to  
37 result in grave disability or serious harm to himself or herself, or  
38 to others, as defined in Section 5150.

39 (9) It is likely that the person will benefit from assisted  
40 outpatient treatment.

~~(b) (1) A petition for an order authorizing assisted outpatient treatment may be filed by the county behavioral health director, or his or her designee, in the superior court in the county in which the person who is the subject of the petition is present or reasonably believed to be present.~~

~~(2) A request may be made only by any of the following persons to the county mental health department for the filing of a petition to obtain an order authorizing assisted outpatient treatment:~~

~~(A) Any person 18 years of age or older with whom the person who is the subject of the petition resides.~~

~~(B) Any person who is the parent, spouse, or sibling or child 18 years of age or older of the person who is the subject of the petition.~~

~~(C) The director of any public or private agency, treatment facility, charitable organization, or licensed residential care facility providing mental health services to the person who is the subject of the petition in whose institution the subject of the petition resides.~~

~~(D) The director of a hospital in which the person who is the subject of the petition is hospitalized.~~

~~(E) A licensed mental health treatment provider who is either supervising the treatment of, or treating for a mental illness, the person who is the subject of the petition.~~

~~(F) A peace officer, parole officer, or probation officer assigned to supervise the person who is the subject of the petition.~~

~~(3) Upon receiving a request pursuant to paragraph (2), the county behavioral health director shall conduct an investigation into the appropriateness of the filing of the petition. The director shall file the petition only if he or she determines that there is a reasonable likelihood that all the necessary elements to sustain the petition can be proven in a court of law by clear and convincing evidence.~~

~~(4) The petition shall state all of the following:~~

~~(A) Each of the criteria for assisted outpatient treatment as set forth in subdivision (a).~~

~~(B) Facts that support the petitioner's belief that the person who is the subject of the petition meets each criterion, provided that the hearing on the petition shall be limited to the stated facts in the verified petition, and the petition contains all the grounds on~~



1 which the petition is based, in order to ensure adequate notice to  
2 the person who is the subject of the petition and his or her counsel.

3 (C) That the person who is the subject of the petition is present,  
4 or is reasonably believed to be present, within the county where  
5 the petition is filed.

6 (D) That the person who is the subject of the petition has the  
7 right to be represented by counsel in all stages of the proceeding  
8 under the petition, in accordance with subdivision (c).

9 (5) The petition shall be accompanied by an affidavit of a  
10 licensed mental health treatment provider designated by the local  
11 mental health director who shall state, if applicable, either of the  
12 following:

13 (A) That the licensed mental health treatment provider has  
14 personally examined the person who is the subject of the petition  
15 no more than 10 days prior to the submission of the petition, the  
16 facts and reasons why the person who is the subject of the petition  
17 meets the criteria in subdivision (a), that the licensed mental health  
18 treatment provider recommends assisted outpatient treatment for  
19 the person who is the subject of the petition, and that the licensed  
20 mental health treatment provider is willing and able to testify at  
21 the hearing on the petition.

22 (B) That no more than 10 days prior to the filing of the petition,  
23 the licensed mental health treatment provider, or his or her  
24 designee, has made appropriate attempts to elicit the cooperation  
25 of the person who is the subject of the petition, but has not been  
26 successful in persuading that person to submit to an examination;  
27 that the licensed mental health treatment provider has reason to  
28 believe that the person who is the subject of the petition meets the  
29 criteria for assisted outpatient treatment, and that the licensed  
30 mental health treatment provider is willing and able to examine  
31 the person who is the subject of the petition and testify at the  
32 hearing on the petition.

33 (c) The person who is the subject of the petition shall have the  
34 right to be represented by counsel at all stages of a proceeding  
35 commenced under this section. If the person so elects, the court  
36 shall immediately appoint the public defender or other attorney to  
37 assist the person in all stages of the proceedings. The person shall  
38 pay the cost of the legal services if he or she is able.

39 (d) (1) Upon receipt by the court of a petition submitted  
40 pursuant to subdivision (b), the court shall fix the date for a hearing

1 at a time not later than five days from the date the petition is  
2 received by the court, excluding Saturdays, Sundays, and holidays.  
3 The petitioner shall promptly cause service of a copy of the  
4 petition, together with written notice of the hearing date, to be  
5 made personally on the person who is the subject of the petition,  
6 and shall send a copy of the petition and notice to the county office  
7 of patient rights, and to the current health care provider appointed  
8 for the person who is the subject of the petition, if that provider is  
9 known to the petitioner. Continuances shall be permitted only for  
10 good cause shown. In granting continuances, the court shall  
11 consider the need for further examination by a physician or the  
12 potential need to provide expeditiously assisted outpatient  
13 treatment. Upon the hearing date, or upon any other date or dates  
14 to which the proceeding may be continued, the court shall hear  
15 testimony. If it is deemed advisable by the court, and if the person  
16 who is the subject of the petition is available and has received  
17 notice pursuant to this section, the court may examine in or out of  
18 court the person who is the subject of the petition who is alleged  
19 to be in need of assisted outpatient treatment. If the person who is  
20 the subject of the petition does not appear at the hearing, and  
21 appropriate attempts to elicit the attendance of the person have  
22 failed, the court may conduct the hearing in the person's absence.  
23 If the hearing is conducted without the person present, the court  
24 shall set forth the factual basis for conducting the hearing without  
25 the person's presence.

26 (2) The court shall not order assisted outpatient treatment unless  
27 an examining licensed mental health treatment provider, who has  
28 personally examined, and has reviewed the available treatment  
29 history of, the person who is the subject of the petition within the  
30 time period commencing 10 days before the filing of the petition,  
31 testifies in person at the hearing.

32 (3) If the person who is the subject of the petition has refused  
33 to be examined by a licensed mental health treatment provider,  
34 the court may request that the person consent to an examination  
35 by a licensed mental health treatment provider appointed by the  
36 court. If the person who is the subject of the petition does not  
37 consent and the court finds reasonable cause to believe that the  
38 allegations in the petition are true, the court may order any person  
39 designated under Section 5150 to take into custody the person who  
40 is the subject of the petition and transport him or her, or cause him

1 or her to be transported, to a hospital for examination by a licensed  
2 mental health treatment provider as soon as is practicable.  
3 Detention of the person who is the subject of the petition under  
4 the order may not exceed 72 hours. If the examination is performed  
5 by another licensed mental health treatment provider, the  
6 examining licensed mental health treatment provider may consult  
7 with the licensed mental health treatment provider whose  
8 affirmation or affidavit accompanied the petition regarding the  
9 issues of whether the allegations in the petition are true and whether  
10 the person meets the criteria for assisted outpatient treatment.

11 (4) The person who is the subject of the petition shall have all  
12 of the following rights:

13 (A) To adequate notice of the hearings to the person who is the  
14 subject of the petition, as well as to parties designated by the person  
15 who is the subject of the petition.

16 (B) To receive a copy of the court-ordered evaluation.

17 (C) To counsel. If the person has not retained counsel, the court  
18 shall appoint a public defender.

19 (D) To be informed of his or her right to judicial review by  
20 habeas corpus.

21 (E) To be present at the hearing unless he or she waives the  
22 right to be present.

23 (F) To present evidence.

24 (G) To call witnesses on his or her behalf.

25 (H) To cross-examine witnesses.

26 (I) To appeal decisions, and to be informed of his or her right  
27 to appeal.

28 (5) (A) If after hearing all relevant evidence, the court finds  
29 that the person who is the subject of the petition does not meet the  
30 criteria for assisted outpatient treatment, the court shall dismiss  
31 the petition.

32 (B) If after hearing all relevant evidence, the court finds that  
33 the person who is the subject of the petition meets the criteria for  
34 assisted outpatient treatment, and there is no appropriate and  
35 feasible less restrictive alternative, the court may order the person  
36 who is the subject of the petition to receive assisted outpatient  
37 treatment for an initial period not to exceed six months. In  
38 fashioning the order, the court shall specify that the proposed  
39 treatment is the least restrictive treatment appropriate and feasible  
40 for the person who is the subject of the petition. The order shall

1 state the categories of assisted outpatient treatment, as set forth in  
2 Section 5348, that the person who is the subject of the petition is  
3 to receive, and the court may not order treatment that has not been  
4 recommended by the examining licensed mental health treatment  
5 provider and included in the written treatment plan for assisted  
6 outpatient treatment as required by subdivision (c). If the person  
7 has executed an advance health care directive pursuant to Chapter  
8 2 (commencing with Section 4650) of Part 1 of Division 4.7 of  
9 the Probate Code, any directions included in the advance health  
10 care directive shall be considered in formulating the written  
11 treatment plan.

12 (6) If the person who is the subject of a petition for an order for  
13 assisted outpatient treatment pursuant to subparagraph (B) of  
14 paragraph (5) refuses to participate in the assisted outpatient  
15 treatment program, the court may order the person to meet with  
16 the assisted outpatient treatment team designated by the director  
17 of the assisted outpatient treatment program. The treatment team  
18 shall attempt to gain the person's cooperation with treatment  
19 ordered by the court. The person may be subject to a 72-hour hold  
20 pursuant to subdivision (f) only after the treatment team has  
21 attempted to gain the person's cooperation with treatment ordered  
22 by the court, and has been unable to do so.

23 (e) Assisted outpatient treatment shall not be ordered unless the  
24 licensed mental health treatment provider recommending assisted  
25 outpatient treatment to the court has submitted to the court a written  
26 treatment plan that includes services as set forth in Section 5348,  
27 and the court finds, in consultation with the county behavioral  
28 health director, or his or her designee, all of the following:

29 (1) That the services are available from the county, or a provider  
30 approved by the county, for the duration of the court order.

31 (2) That the services have been offered to the person by the  
32 local director of mental health, or his or her designee, and the  
33 person has been given an opportunity to participate on a voluntary  
34 basis, and the person has failed to engage in, or has refused,  
35 treatment.

36 (3) That all of the elements of the petition required by this article  
37 have been met.

38 (4) That the treatment plan will be delivered to the county  
39 behavioral health director, or to his or her appropriate designee.

1     ~~(f) If, in the clinical judgment of a licensed mental health~~  
2 ~~treatment provider, the person who is the subject of the petition~~  
3 ~~has failed or has refused to comply with the treatment ordered by~~  
4 ~~the court, and, in the clinical judgment of the licensed mental health~~  
5 ~~treatment provider, efforts were made to solicit compliance, and,~~  
6 ~~in the clinical judgment of the licensed mental health treatment~~  
7 ~~provider, the person may be in need of involuntary admission to~~  
8 ~~a hospital for evaluation, the provider may request that persons~~  
9 ~~designated under Section 5150 take into custody the person who~~  
10 ~~is the subject of the petition and transport him or her, or cause him~~  
11 ~~or her to be transported, to a hospital, to be held up to 72 hours for~~  
12 ~~examination by a licensed mental health treatment provider to~~  
13 ~~determine if the person is in need of treatment pursuant to Section~~  
14 ~~5150. Any continued involuntary retention in a hospital beyond~~  
15 ~~the initial 72-hour period shall be pursuant to Section 5150. If at~~  
16 ~~any time during the 72-hour period the person is determined not~~  
17 ~~to meet the criteria of Section 5150, and does not agree to stay in~~  
18 ~~the hospital as a voluntary patient, he or she shall be released and~~  
19 ~~any subsequent involuntary detention in a hospital shall be pursuant~~  
20 ~~to Section 5150. Failure to comply with an order of assisted~~  
21 ~~outpatient treatment alone may not be grounds for involuntary~~  
22 ~~civil commitment or a finding that the person who is the subject~~  
23 ~~of the petition is in contempt of court.~~

24     ~~(g) If the director of the assisted outpatient treatment program~~  
25 ~~determines that the condition of the patient requires further assisted~~  
26 ~~outpatient treatment, the director shall apply to the court, prior to~~  
27 ~~the expiration of the period of the initial assisted outpatient~~  
28 ~~treatment order, for an order authorizing continued assisted~~  
29 ~~outpatient treatment for a period not to exceed 180 days from the~~  
30 ~~date of the order. The procedures for obtaining any order pursuant~~  
31 ~~to this subdivision shall be in accordance with subdivisions (a) to~~  
32 ~~(f), inclusive. The period for further involuntary outpatient~~  
33 ~~treatment authorized by any subsequent order under this~~  
34 ~~subdivision may not exceed 180 days from the date of the order.~~

35     ~~(h) At intervals of not less than 60 days during an assisted~~  
36 ~~outpatient treatment order, the director of the outpatient treatment~~  
37 ~~program shall file an affidavit with the court that ordered the~~  
38 ~~outpatient treatment affirming that the person who is the subject~~  
39 ~~of the order continues to meet the criteria for assisted outpatient~~  
40 ~~treatment. At these times, the person who is the subject of the order~~

1 shall have the right to a hearing on whether or not he or she still  
2 meets the criteria for assisted outpatient treatment if he or she  
3 disagrees with the director's affidavit. The burden of proof shall  
4 be on the director.

5 (i) During each 60-day period specified in subdivision (h), if  
6 the person who is the subject of the order believes that he or she  
7 is being wrongfully retained in the assisted outpatient treatment  
8 program against his or her wishes, he or she may file a petition for  
9 a writ of habeas corpus, thus requiring the director of the assisted  
10 outpatient treatment program to prove that the person who is the  
11 subject of the order continues to meet the criteria for assisted  
12 outpatient treatment.

13 (j) Any person ordered to undergo assisted outpatient treatment  
14 pursuant to this article, who was not present at the hearing at which  
15 the order was issued, may immediately petition the court for a writ  
16 of habeas corpus. Treatment under the order for assisted outpatient  
17 treatment may not commence until the resolution of that petition.