

**ASSEMBLY BILL**

**No. 1800**

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**Introduced by Assembly Member Thomson and Senator  
Perata  
(Coauthors: Assembly Members Alquist, Dutra, Kuehl,  
Lempert, Mazzoni, Soto, and Washington)**

January 27, 2000

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An act to amend Section 2600 of the Penal Code, and to amend Sections 5008, 5250, 5256.5, 5256.6, 5257, 5259.3, 5270.15, 5270.55, 5300, 5301, 5304, 5331, and 5350 of, to repeal Sections 5325.2, 5332, 5333, 5334, and 5336 of, and to repeal and add Article 4.5 (commencing with Section 5260) of Chapter 2 of Part 1 of Division 5 of the Health and Safety Code, relating to health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1800, as introduced, Thomson. Mental health.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons who are dangerous to self or others, or gravely disabled, as defined. Existing law requires each person admitted to a facility for 72-hour treatment and evaluation to receive an evaluation as soon after he or she is admitted as possible and receive whatever treatment and care his or her condition requires for the full period that he or she is held. Existing law further provides that if a person is detained for 72 hours or under court order for evaluation and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental disorder or

impairment by chronic alcoholism if certain conditions are met.

This bill would extend the 14-day period of intensive treatment to 28 days, and would make additional conforming changes.

Existing law also provides for a further period of intensive treatment of 180 days after the expiration of the initial period of intensive treatment if certain conditions exist.

This bill would extend that period of intensive treatment to one year and would require that proof of the existence of these conditions be made by clear and convincing evidence.

This bill would redefine the term gravely disabled for purposes of the evaluation of persons to appraise their need for intensive treatment.

Existing law requires that certain procedures be followed in all cases of involuntary 14-day intensive treatment.

This bill would revise those requirements to, instead, provide for the placement of certain persons committed for a 72-hour or 14-day period in community assisted treatment programs, if specific conditions exist, and would require that if the patient does not or cannot abide by the terms of the treatment plan, he or she shall be returned to inpatient treatment for the remaining days of the underlying treatment certification.

This bill would appropriate \$350,000,000 to the Controller for allocation for the purposes of this bill.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 2600 of the Penal Code is  
2 amended to read:

3 2600. A person sentenced to imprisonment in a state  
4 prison may during that period of confinement be  
5 deprived of such rights, and only such rights, as is  
6 reasonably related to legitimate penological interests.

7 Nothing in this section shall be construed to permit the  
8 involuntary administration of psychotropic medication  
9 unless the process specified in the permanent injunction,



1 dated October 31, 1986, in the matter of Keyhea v.  
2 Rushen, 178 Cal. App. 3d 526, has been followed. *In*  
3 *addition, the process shall reflect the standard in the*  
4 *community for treatment, including the treatment of*  
5 *persons who are gravely disabled, as that term is defined*  
6 *in subdivision (h) of Section 5008 of the Welfare and*  
7 *Institutions Code, and who are routinely provided with*  
8 *food, clothing, and shelter by the penal institution. The*  
9 judicial hearing for the authorization for the involuntary  
10 administration of psychotropic medication provided for  
11 in Part III of the injunction shall be conducted by an  
12 administrative law judge. The hearing may, at the  
13 direction of the director, be conducted at the facility  
14 where the inmate is located.

15 Nothing in this section shall be construed to overturn  
16 the decision in Thor v. Superior Court, 5 Cal. 4th 725.

17 SEC. 2. Section 5008 of the Welfare and Institutions  
18 Code is amended to read:

19 5008. Unless the context otherwise requires, the  
20 following definitions shall govern the construction of this  
21 part:

22 (a) "Evaluation" consists of multidisciplinary  
23 professional analyses of a person's medical, psychological,  
24 educational, social, financial, and legal conditions as may  
25 appear to constitute a problem. Persons providing  
26 evaluation services shall be properly qualified  
27 professionals and may be full-time employees of an  
28 agency providing evaluation services or may be part-time  
29 employees or may be employed on a contractual basis.

30 (b) "Court-ordered evaluation" means an evaluation  
31 ordered by a superior court pursuant to Article 2  
32 (commencing with Section 5200) or by a court pursuant  
33 to Article 3 (commencing with Section 5225) of Chapter  
34 2.

35 (c) "Intensive treatment" consists of such hospital and  
36 other services as may be indicated. Intensive treatment  
37 shall be provided by properly qualified professionals and  
38 carried out in facilities qualifying for reimbursement  
39 under the California Medical Assistance Program  
40 (Medi-Cal) set forth in Chapter 7 (commencing with



1 Section 14000) of Part 3 of Division 9, or under Title XVIII  
2 of the federal Social Security Act and regulations  
3 thereunder. Intensive treatment may be provided in  
4 hospitals of the United States government by properly  
5 qualified professionals. Nothing in this part shall be  
6 construed to prohibit an intensive treatment facility from  
7 also providing 72-hour treatment and evaluation.

8 (d) "Referral" is referral of persons by each agency or  
9 facility providing intensive treatment or evaluation  
10 services to other agencies or individuals. The purpose of  
11 referral shall be to provide for continuity of care, and may  
12 include, but need not be limited to, informing the person  
13 of available services, making appointments on the  
14 person's behalf, discussing the person's problem with the  
15 agency or individual to which the person has been  
16 referred, appraising the outcome of referrals, and  
17 arranging for personal escort and transportation when  
18 necessary. Referral shall be considered complete when  
19 the agency or individual to whom the person has been  
20 referred accepts responsibility for providing the  
21 necessary services. All persons shall be advised of  
22 available precare services which prevent initial recourse  
23 to hospital treatment or aftercare services which support  
24 adjustment to community living following hospital  
25 treatment. These services may be provided through  
26 county welfare departments, State Department of  
27 Mental Health, Short-Doyle programs or other local  
28 agencies.

29 Each agency or facility providing evaluation services  
30 shall maintain a current and comprehensive file of all  
31 community services, both public and private. These files  
32 shall contain current agreements with agencies or  
33 individuals accepting referrals, as well as appraisals of the  
34 results of past referrals.

35 (e) "Crisis intervention" consists of an interview or  
36 series of interviews within a brief period of time,  
37 conducted by qualified professionals, and designed to  
38 alleviate personal or family situations which present a  
39 serious and imminent threat to the health or stability of  
40 the person or the family. The interview or interviews may



1 be conducted in the home of the person or family, or on  
2 an inpatient or outpatient basis with such therapy, or  
3 other services, as may be appropriate. Crisis intervention  
4 may, as appropriate, include suicide prevention,  
5 psychiatric, welfare, psychological, legal, or other social  
6 services.

7 (f) “Prepetition screening” is a screening of all  
8 petitions for court-ordered evaluation as provided in  
9 Article 2 (commencing with Section 5200) of Chapter 2,  
10 consisting of a professional review of all petitions; an  
11 interview with the petitioner and, whenever possible, the  
12 person alleged, as a result of mental disorder, to be a  
13 danger to others, or to himself or herself, or to be gravely  
14 disabled, to assess the problem and explain the petition;  
15 when indicated, efforts to persuade the person to receive,  
16 on a voluntary basis, comprehensive evaluation, crisis  
17 intervention, referral, and other services specified in this  
18 part.

19 (g) “Conservatorship investigation” means  
20 investigation by an agency appointed or designated by  
21 the governing body of cases in which conservatorship is  
22 recommended pursuant to Chapter 3 (commencing with  
23 Section 5350).

24 (h) (1) For purposes of Article 1 (commencing with  
25 Section 5150), Article 2 (commencing with Section 5200),  
26 and Article 4 (commencing with Section 5250) of  
27 Chapter 2, and for the purposes of Chapter 3  
28 (commencing with Section 5350), “gravely disabled”  
29 means either of the following:

30 ~~(A) A condition in which a person, as a result of a~~  
31 ~~mental disorder, is unable to provide for his or her basic~~  
32 ~~personal needs for food, clothing, or shelter.~~

33 (A) *A condition in which a person, as a result of a*  
34 *mental disorder, is unable to provide for his or her basic*  
35 *personal needs for food, clothing, or shelter, or has a prior*  
36 *history of mental illness and again presents clear evidence*  
37 *of a recurrence that poses a serious risk of substantial*  
38 *deterioration that is likely to result in serious harm to the*  
39 *person in the absence of treatment.*



1 (B) A condition in which a person, has been found  
2 mentally incompetent under Section 1370 of the Penal  
3 Code and all of the following facts exist:  
4 (i) The indictment or information pending against the  
5 defendant at the time of commitment charges a felony  
6 involving death, great bodily harm, or a serious threat to  
7 the physical well-being of another person.  
8 (ii) The indictment or information has not been  
9 dismissed.  
10 (iii) As a result of mental disorder, the person is unable  
11 to understand the nature and purpose of the proceedings  
12 taken against him or her and to assist counsel in the  
13 conduct of his or her defense in a rational manner.  
14 (2) For purposes of Article 3 (commencing with  
15 Section 5225) and Article 4 (commencing with Section  
16 5250), of Chapter 2, and for the purposes of Chapter 3  
17 (commencing with Section 5350), “gravely disabled”  
18 means a condition in which a person, as a result of  
19 impairment by chronic alcoholism, is unable to provide  
20 for his or her basic personal needs for food, clothing, or  
21 shelter.  
22 (3) The term “gravely disabled” does not include  
23 mentally retarded persons by reason of being mentally  
24 retarded alone.  
25 (i) “Peace officer” means a duly sworn peace officer  
26 as that term is defined in Chapter 4.5 (commencing with  
27 Section 830) of Title 3 of Part 2 of the Penal Code who has  
28 completed the basic training course established by the  
29 Commission on Peace Officer Standards and Training, or  
30 any parole officer or probation officer specified in Section  
31 830.5 of the Penal Code when acting in relation to cases  
32 for which he or she has a legally mandated responsibility.  
33 (j) “Postcertification treatment” means an additional  
34 period of treatment pursuant to Article 6 (commencing  
35 with Section 5300) of Chapter 2.  
36 (k) “Court,” unless otherwise specified, means a court  
37 of record.  
38 (l) “Antipsychotic medication” means any medication  
39 customarily prescribed for the treatment of symptoms of



1 psychoses and other severe mental and emotional  
2 disorders.

3 (m) “Emergency” means a situation in which action to  
4 impose treatment over the person’s objection is  
5 immediately necessary for the preservation of life or the  
6 prevention of serious bodily harm to the patient or others,  
7 and it is impracticable to first gain consent. It is not  
8 necessary for harm to take place or become unavoidable  
9 prior to treatment.

10 SEC. 3. Section 5250 of the Welfare and Institutions  
11 Code is amended to read:

12 5250. If a person is detained for 72 hours under the  
13 provisions of Article 1 (commencing with Section 5150),  
14 or under court order for evaluation pursuant to Article 2  
15 (commencing with Section 5200) or Article 3  
16 (commencing with Section 5225) and has received an  
17 evaluation, he or she may be certified for not more than  
18 ~~14~~ 28 days of intensive treatment related to the mental  
19 disorder or impairment by chronic alcoholism, under the  
20 following conditions:

21 (a) The professional staff of the agency or facility  
22 providing evaluation services has analyzed the person’s  
23 condition and has found the person is, as a result of mental  
24 disorder or impairment by chronic alcoholism, a danger  
25 to others, or to himself or herself, or gravely disabled.

26 (b) The facility providing intensive treatment is  
27 designated by the county to provide intensive treatment,  
28 and agrees to admit the person. No facility shall be  
29 designated to provide intensive treatment unless it  
30 complies with the certification review hearing required  
31 by this article. The procedures shall be described in the  
32 county Short-Doyle plan ~~as required by Section 5651.3.~~

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

36 (d) (1) Notwithstanding paragraph (1) of subdivision  
37 (h) of Section 5008, a person is not “gravely disabled” if  
38 that person can survive safely without involuntary  
39 detention with the help of responsible family, friends, or  
40 others who are both willing and able to help provide for



1 the person’s basic personal needs for food, clothing, or  
2 shelter.

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

7 (3) The purpose of this subdivision is to avoid the  
8 necessity for, and the harmful effects of, requiring family,  
9 friends, and others to publicly state, and requiring the  
10 certification review officer to publicly find, that no one is  
11 willing or able to assist the mentally disordered person in  
12 providing for the person’s basic needs for food, clothing,  
13 or shelter.

14 SEC. 4. Section 5256.5 of the Welfare and Institutions  
15 Code is amended to read:

16 5256.5. If at the conclusion of the certification review  
17 hearing the person conducting the hearing finds that  
18 there is not probable cause to believe that the person  
19 certified is, as a result of a mental disorder or impairment  
20 by chronic alcoholism, a danger ~~to others, or~~ to himself or  
21 herself, or gravely disabled, *and lacks the capacity to*  
22 *make informed decisions regarding his or her own*  
23 *treatment, or a danger to others*, then the person certified  
24 may no longer be involuntarily detained. Nothing ~~herein~~  
25 *in this section* shall prohibit the person from remaining at  
26 the facility on a voluntary basis or the facility from  
27 providing the person with appropriate referral  
28 information concerning mental health services.

29 SEC. 5. Section 5256.6 of the Welfare and Institutions  
30 Code is amended to read:

31 5256.6. If at the conclusion of the certification review  
32 hearing the person conducting the hearing finds that  
33 there is probable cause that the person certified is, as a  
34 result of a mental disorder or impairment by chronic  
35 alcoholism, a danger ~~to others, or to~~ himself or herself, or  
36 gravely disabled, *and lacks the capacity to make*  
37 *informed decisions regarding his or her own treatment,*  
38 *or a danger to others*, then the person may be detained  
39 for involuntary care, protection, and treatment related to



1 the mental disorder or impairment by chronic alcoholism  
2 pursuant to Sections 5250 and 5270.15.

3 SEC. 6. Section 5257 of the Welfare and Institutions  
4 Code is amended to read:

5 5257. During the period of intensive treatment  
6 pursuant to Section 5250 or 5270.15, only if the psychiatrist  
7 directly responsible for the person's treatment believes,  
8 as a result of his or her personal observations, that the  
9 person certified no longer is, as a result of mental disorder  
10 or impairment by chronic alcoholism, a danger to others,  
11 or to himself or herself, or gravely disabled, then the  
12 person's involuntary detention shall end and the person  
13 shall be released. If any other professional person who is  
14 authorized to release the person believes the person  
15 should be released during the designated period of  
16 intensive treatment, and the psychiatrist directly  
17 responsible for the person's treatment objects, the matter  
18 shall be referred to the medical director of the facility for  
19 the final decision. However, if the medical director is not  
20 a psychiatrist, he or she shall appoint a designee who is a  
21 psychiatrist. If the matter is referred, the person shall be  
22 released during the period of intensive treatment only if  
23 the psychiatrist making the final decision believes, as a  
24 result of his or her personal observations, that the person  
25 certified no longer is, as a result of mental disorder or  
26 impairment by chronic alcoholism, a danger to others, or  
27 to himself or herself, or gravely disabled. Nothing ~~herein~~  
28 *in this section* shall prohibit either the person remaining  
29 at the facility on a voluntary basis or the facility from  
30 providing the person with appropriate referral  
31 information concerning mental health services.

32 A person who has been certified for a period of  
33 intensive treatment pursuant to Section 5250 shall be  
34 released at the end of ~~14~~ 28 days unless the patient either:

35 (a) Agrees to receive further treatment on a voluntary  
36 basis.

37 (b) Is certified for an additional ~~14 days of intensive~~  
38 *180 days of community assisted outpatient* treatment  
39 pursuant to Article 4.5 (commencing with Section 5260).



1 (c) Is certified for an additional 30 days of intensive  
2 treatment pursuant to Article 4.7 (commencing with  
3 Section 5270.10).

4 (d) Is the subject of a conservatorship petition filed  
5 pursuant to Chapter 3 (commencing with Section 5350).

6 (e) Is the subject of a petition for Postcertification of  
7 an Imminently Dangerous Person filed pursuant to  
8 Article 6 (commencing with Section 5300).

9 SEC. 7. Section 5259.3 of the Welfare and Institutions  
10 Code is amended to read:

11 5259.3. (a) Notwithstanding Section 5113, if the  
12 provisions of Section 5257 have been met, the professional  
13 person in charge of the facility providing intensive  
14 treatment, his or her designee, the medical director of the  
15 facility or his or her designee described in Section 5257,  
16 and the psychiatrist directly responsible for the person's  
17 treatment shall not be held civilly or criminally liable for  
18 any action by a person released before the end of ~~14~~ 28  
19 days pursuant to this article.

20 (b) The professional person in charge of the facility  
21 providing intensive treatment, his or her designee, the  
22 medical director of the facility or his or her designee  
23 described in Section 5257, and the psychiatrist directly  
24 responsible for the person's treatment shall not be held  
25 civilly or criminally liable for any action by a person  
26 released at the end of the ~~14~~ 28 days pursuant to this  
27 article.

28 (c) The attorney or advocate representing the person,  
29 the court-appointed commissioner or referee, the  
30 certification review hearing officer conducting the  
31 certification review hearing, and the peace officer  
32 responsible for the detainment of the person shall not be  
33 civilly or criminally liable for any action by a person  
34 released at or before the end of ~~14~~ 28 days pursuant to this  
35 article.

36 SEC. 8. Article 4.5 (commencing with Section 5260)  
37 of Chapter 2 of Part 1 of Division 5 of the Welfare and  
38 Institutions Code is repealed.



1 SEC. 9. Article 4.5 (commencing with Section 5260)  
2 is added to Chapter 2 of Part 1 of Division 5 of the Welfare  
3 and Institutions Code, to read:

4  
5 Article 4.5. Community Assisted Outpatient  
6 Treatment Programs  
7

8 5260. Persons committed pursuant to Sections 5150  
9 and 5250 shall be placed in community assisted outpatient  
10 treatment programs for 180 days if all of the following  
11 conditions exist:

12 (a) The treating physician thinks that he or she  
13 requires continuing treatment and care under supervised  
14 conditions to maintain and improve recovery and the  
15 person is sufficiently stable to benefit from community  
16 placement.

17 (b) The person agrees to community assisted  
18 treatment.

19 (c) The person does not present an immediate harm  
20 to self or others.

21 (d) A community assisted treatment program is  
22 available and willing to accept the person.

23 (e) A community treatment plan is prepared by the  
24 treating physician and the community treatment  
25 program and is agreed to by all parties.

26 5261. In the event the patient does not or cannot  
27 abide by the terms of the agreed upon community  
28 treatment plan, including medication compliance, and  
29 the person poses a risk of substantial deterioration, the  
30 person may be returned to inpatient treatment for the  
31 remaining days of the underlying involuntary treatment  
32 certification.

33 SEC. 10. Section 5270.15 of the Welfare and  
34 Institutions Code is amended to read:

35 5270.15. Upon the completion of a ~~14-day~~ 28-day  
36 period of intensive treatment pursuant to Section 5250,  
37 the person may be certified for an additional period of not  
38 more than 30 days of intensive treatment under both of  
39 the following conditions:

1 (a) The professional staff of the agency or facility  
2 treating the person has found that the person remains  
3 gravely disabled as a result of a mental disorder or  
4 impairment by chronic alcoholism.

5 (b) The person remains unwilling or unable to accept  
6 treatment voluntarily.

7 Any person certified for an additional 30 days pursuant  
8 to this article shall be provided a certification review  
9 hearing in accordance with Section 5256 unless a judicial  
10 review is requested pursuant to Article 5 (commencing  
11 with Section 5275).

12 The professional staff of the agency or facility providing  
13 intensive treatment shall analyze the person's condition  
14 at intervals of not to exceed 10 days, to determine  
15 whether the person continues to meet the criteria  
16 established for certification under this section, and shall  
17 daily monitor the person's treatment plan and progress.  
18 Termination of this certification prior to the 30th day shall  
19 be made pursuant to Section 5270.35.

20 SEC. 11. Section 5270.55 of the Welfare and  
21 Institutions Code is amended to read:

22 5270.55. (a) Whenever it is contemplated that a  
23 gravely disabled person may need to be detained beyond  
24 the end of the ~~14-day~~ 28-day period of intensive  
25 treatment and prior to proceeding with an additional  
26 30-day certification, the professional person in charge of  
27 the facility shall cause an evaluation to be made, based on  
28 the patient's current condition and past history, as to  
29 whether it appears that the person, even after up to 30  
30 days of additional treatment, is likely to qualify for  
31 appointment of a conservator. If the appointment of a  
32 conservator appears likely, the conservatorship referral  
33 shall be made during the ~~14-day~~ 28-day period of  
34 intensive treatment.

35 (b) If it appears that with up to 30 days additional  
36 treatment a person is likely to reconstitute sufficiently to  
37 obviate the need for appointment of a conservator, then  
38 the person may be certified for the additional 30 days.

39 (c) Where no conservatorship referral has been made  
40 during the ~~14-day~~ 28-day period and where during the



1 30-day certification it appears that the person is likely to  
2 require the appointment of a conservator, then the  
3 conservatorship referral shall be made to allow sufficient  
4 time for conservatorship investigation and other related  
5 procedures. If a temporary conservatorship is obtained,  
6 it shall run concurrently with and not consecutively to the  
7 30-day certification period. The conservatorship hearing  
8 shall be held by the 30th day of the certification period.  
9 The maximum involuntary detention period for gravely  
10 disabled persons pursuant to Sections 5150, 5250 and  
11 5270.15 shall be limited to ~~47~~ 61 days. Nothing in this  
12 section shall prevent a person from ~~exercising~~  
13 *exercising* his or her right to a hearing as stated in Sections  
14 5275 and 5353.

15 SEC. 12. Section 5300 of the Welfare and Institutions  
16 Code is amended to read:

17 5300. (a) At the expiration of the ~~14-day~~ 28-day  
18 period of intensive treatment, a person may be confined  
19 for further treatment pursuant to the provisions of this  
20 article for an additional period, not to exceed ~~180 days~~  
21 *one year if it is proved by clear and convincing evidence*  
22 *that one of the following exists:*

23 ~~(a)~~

24 (1) The person has attempted, inflicted, or made a  
25 serious threat of substantial physical harm upon the  
26 person of another after having been taken into custody,  
27 and while in custody, for evaluation and treatment, and  
28 who, as a result of mental disorder or mental defect,  
29 presents a demonstrated danger of inflicting substantial  
30 physical harm upon others.

31 ~~(b)~~

32 (2) The person had attempted, or inflicted physical  
33 harm upon the person of another, that act having resulted  
34 in his or her being taken into custody and who presents,  
35 as a result of mental disorder or mental defect, a  
36 demonstrated danger of inflicting substantial physical  
37 harm upon others.

38 ~~(c)~~

39 (3) The person had made a serious threat of substantial  
40 physical harm upon the person of another within seven



1 days of being taken into custody, that threat having at  
 2 least in part resulted in his or her being taken into  
 3 custody, and the person presents, as a result of mental  
 4 disorder or mental defect, a demonstrated danger of  
 5 inflicting substantial physical harm upon others.

6 ~~Any~~

7 (b) *Any* commitment to a licensed health facility  
 8 under this article places an affirmative obligation on the  
 9 facility to provide treatment for the underlying causes of  
 10 the person’s mental disorder.

11 ~~Amenability~~

12 (c) *Amenability* to treatment is not required for a  
 13 finding that any person is a person as described in  
 14 ~~subdivisions (a), (b), or (c) paragraph (1), (2), or (3) of~~  
 15 *subdivision (a)*. Treatment programs need only be made  
 16 available to these persons. Treatment does not mean that  
 17 the treatment be successful or potentially successful, and  
 18 it does not mean that the person must recognize his or her  
 19 problem and willingly participate in the treatment  
 20 program.

21 SEC. 13. Section 5301 of the Welfare and Institutions  
 22 Code is amended to read:

23 5301. At any time during the ~~14-day~~ 28-day intensive  
 24 treatment period the professional person in charge of the  
 25 licensed health facility, or his or her designee, may ask the  
 26 public officer required by Section 5114 to present  
 27 evidence at proceedings under this article to petition the  
 28 superior court in the county in which the licensed health  
 29 facility providing treatment is located for an order  
 30 requiring ~~such~~ *the* person to undergo an additional  
 31 period of treatment on the grounds set forth in Section  
 32 5300. ~~Such~~ *The* petition shall summarize the facts ~~which~~  
 33 *that* support the contention that the person falls within  
 34 the standard set forth in Section 5300. The petition shall  
 35 be supported by affidavits describing in detail the  
 36 behavior ~~which~~ *that* indicates that the person falls within  
 37 the standard set forth in Section 5300.

38 Copies of the petition for postcertification treatment  
 39 and the affidavits in support thereof shall be served upon



1 the person named in the petition on the same day as they  
2 are filed with the clerk of the superior court.

3 The petition shall be in the following form:

4

5

Petition for Postcertification Treatment of a  
6 Dangerous Person  
7

8

I, \_\_\_\_\_, (the professional person in charge of the  
9 \_\_\_\_\_ intensive treatment facility) (the designee of  
10 \_\_\_\_\_ the professional person in charge of the  
11 \_\_\_\_\_, treatment facility) in which \_\_\_\_\_ has been  
12 under treatment pursuant to the certification by \_\_\_\_\_  
13 and \_\_\_\_\_, hereby petition the court for an order  
14 requiring \_\_\_\_\_ to undergo an additional period of  
15 treatment, not to exceed 180 days, pursuant to the  
16 provisions of Article 6 (commencing with Section 5300)  
17 of Chapter 2 of Part 1 of Division 5 of the Welfare and  
18 Institutions Code. ~~Such~~ The petition is based upon my  
19 allegation that (a) \_\_\_\_\_ has attempted, inflicted, or  
20 made a serious threat of substantial physical harm upon  
21 the person of another after having been taken into  
22 custody, and while in custody, for evaluation, and that, by  
23 reason of mental disorder or mental defect, presents a  
24 demonstrated danger of inflicting substantial physical  
25 harm upon others, or that (b) \_\_\_\_\_ had attempted or  
26 inflicted physical harm upon the person of another, that  
27 act having resulted in his or her being taken into custody,  
28 and that he or she presents, as a result of mental disorder  
29 or mental defect, a demonstrated danger of inflicting  
30 substantial physical harm upon others, or that (c)  
31 \_\_\_\_\_ had made a serious threat of substantial physical  
32 harm upon the person of another within seven days of  
33 being taken into custody, that threat having at least in  
34 part resulted in his or her being taken into custody, and  
35 that he or she presents, as a result of mental disorder or  
36 mental defect, a demonstrated danger of inflicting  
37 substantial physical harm upon others.

38 My allegation is based upon the following facts:



1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_

8 This allegation is supported by the accompanying  
 9 affidavits signed by \_\_\_\_\_.

10  
 11 Signed \_\_\_\_\_  
 12

13 The courts may receive the affidavits in evidence and  
 14 may allow the affidavits to be read to the jury and the  
 15 contents thereof considered in rendering a verdict, unless  
 16 counsel for the person named in the petition subpoenas  
 17 the treating professional person. If ~~such~~ *the* treating  
 18 professional person is subpoenaed to testify, the public  
 19 officer, pursuant to Section 5114, shall be entitled to a  
 20 continuance of the hearing or trial.

21 SEC. 14. Section 5304 of the Welfare and Institutions  
 22 Code is amended to read:

23 5304. (a) The court shall remand a person named in  
 24 the petition for postcertification treatment to the custody  
 25 of the State Department of Mental Health or to a licensed  
 26 health facility designated by the county of residence of  
 27 that person for a further period of intensive treatment not  
 28 to exceed ~~180 days~~ *one year* from the date of court  
 29 judgment, if the court or jury finds, *based on clear and*  
 30 *convincing evidence*, that the person named in the  
 31 petition for postcertification treatment has done any of  
 32 the following:

33 (1) Attempted, inflicted, or made a serious threat of  
 34 substantial physical harm upon the person of another  
 35 after having been taken into custody, and while in  
 36 custody, for evaluation and treatment, and who, as a  
 37 result of mental disorder or mental defect, presents a  
 38 demonstrated danger of inflicting substantial physical  
 39 harm upon others.



1 (2) Attempted or inflicted physical harm upon the  
2 person of another, that act having resulted in his or her  
3 being taken into custody, and who, as a result of mental  
4 disorder or mental defect, presents a demonstrated  
5 danger of inflicting substantial physical harm upon  
6 others.

7 (3) Expressed a serious threat of substantial physical  
8 harm upon the person of another within seven days of  
9 being taken into custody, that threat having at least in  
10 part resulted in his or her being taken into custody, and  
11 who presents, as a result of mental disorder or mental  
12 defect, a demonstrated danger of inflicting substantial  
13 physical harm upon others.

14 (b) The person shall be released from involuntary  
15 treatment at the expiration of ~~180 days~~ *one year* unless  
16 the public officer, pursuant to Section 5114, files a new  
17 petition for postcertification treatment on the grounds  
18 that he or she has attempted, inflicted, or made a serious  
19 threat of substantial physical harm upon another during  
20 his or her period of postcertification treatment, and he or  
21 she is a person who by reason of mental disorder or mental  
22 defect, presents a demonstrated danger of inflicting  
23 substantial physical harm upon others. The new petition  
24 for postcertification treatment shall be filed in the  
25 superior court in which the original petition for  
26 postcertification was filed.

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

30 SEC. 16. Section 5325.2 of the Welfare and Institutions  
31 Code is repealed.

32 ~~5325.2. Any person who is subject to detention~~  
33 ~~pursuant to Section 5150, 5250, 5260, or 5270.15 shall have~~  
34 ~~the right to refuse treatment with antipsychotic~~  
35 ~~medication subject to provisions set forth in this chapter.~~

36 SEC. 17. Section 5331 of the Welfare and Institutions  
37 Code is amended to read:

38 5331. No person may be presumed to be incompetent  
39 because he or she has been evaluated or treated for  
40 mental disorder or chronic alcoholism, regardless of



1 whether such evaluation or treatment was voluntarily or  
2 involuntarily received. Any person who leaves a public or  
3 private mental health facility following evaluation or  
4 treatment for mental disorder or chronic alcoholism,  
5 regardless of whether that evaluation or treatment was  
6 voluntarily or involuntarily received, shall be given a  
7 statement of California law as stated in this paragraph.

8 Any person who has been, or is, discharged from a state  
9 hospital and received voluntary or involuntary treatment  
10 under former provisions of this code relating to inebriates  
11 or the mentally ill shall, upon request to the state hospital  
12 superintendent or the State Department of Mental  
13 Health, be given a statement of California law as stated  
14 in this section unless the person is found to be  
15 incompetent under proceedings for conservatorship or  
16 guardianship.

17 *Nothing in this section is intended to prohibit the*  
18 *treatment of individuals who are involuntarily detained*  
19 *pursuant to Sections 5150 and 5250 while they are in an*  
20 *inpatient status. Any determination of a person's*  
21 *incapacity shall remain in effect only for the duration of*  
22 *the detention periods described in Section 5150 or 5250.*

23 SEC. 18. Section 5332 of the Welfare and Institutions  
24 Code is repealed.

25 ~~5332. (a) Antipsychotic medication, as defined in~~  
26 ~~subdivision (l) of Section 5008, may be administered to~~  
27 ~~any person subject to detention pursuant to Section 5150,~~  
28 ~~5250, 5260, or 5270.15, if that person does not refuse that~~  
29 ~~medication following disclosure of the right to refuse~~  
30 ~~medication as well as information required to be given to~~  
31 ~~persons pursuant to subdivision (c) of Section 5152 and~~  
32 ~~subdivision (b) of Section 5213.~~

33 ~~(b) If any person subject to detention pursuant to~~  
34 ~~Section 5150, 5250, 5260, or 5270.15, and for whom~~  
35 ~~antipsychotic medication has been prescribed, orally~~  
36 ~~refuses or gives other indication of refusal of treatment~~  
37 ~~with that medication, the medication shall only be~~  
38 ~~administered when treatment staff have considered and~~  
39 ~~determined that treatment alternatives to involuntary~~  
40 ~~medication are unlikely to meet the needs of the patient;~~



1 and upon a determination of that person's incapacity to  
2 refuse the treatment, in a hearing held for that purpose.

3 (e) Each hospital in conjunction with the hospital  
4 medical staff or any other treatment facility in  
5 conjunction with its clinical staff shall develop internal  
6 procedures for facilitating the filing of petitions for  
7 capacity hearings and other activities required pursuant  
8 to this chapter.

9 (d) In the case of an emergency, as defined in  
10 subdivision (m) of Section 5008, a person detained  
11 pursuant to Section 5150, 5250, 5260, or 5270.15 may be  
12 treated with antipsychotic medication over his or her  
13 objection prior to a capacity hearing, but only with  
14 antipsychotic medication that is required to treat the  
15 emergency condition, which shall be provided in the  
16 manner least restrictive to the personal liberty of the  
17 patient. It is not necessary for harm to take place or  
18 become unavoidable prior to intervention.

19 SEC. 19. Section 5333 of the Welfare and Institutions  
20 Code is repealed.

21 5333. (a) Persons subject to capacity hearings  
22 pursuant to Section 5332 shall have a right to  
23 representation by an advocate or legal counsel.  
24 "Advocate," as used in this section, means a person who  
25 is providing mandated patients' rights advocacy services  
26 pursuant to Chapter 6.2 (commencing with Section  
27 5500), and this chapter. If the Department of Mental  
28 Health provides training to patients' rights advocates,  
29 that training shall include issues specific to capacity  
30 hearings.

31 (b) Petitions for capacity hearings pursuant to Section  
32 5332 shall be filed with the superior court. The director of  
33 the treatment facility or his or her designee shall  
34 personally deliver a copy of the notice of the filing of the  
35 petition for a capacity hearing to the person who is the  
36 subject of the petition.

37 (e) The mental health professional delivering the copy  
38 of the notice of the filing of the petition to the court for  
39 a capacity hearing shall, at the time of delivery, inform  
40 the person of his or her legal right to a capacity hearing.



1 including the right to the assistance of the patients' rights  
2 advocate or an attorney to prepare for the hearing and to  
3 answer any questions or concerns.

4 (d) As soon after the filing of the petition for a capacity  
5 hearing is practicable, an attorney or a patients' rights  
6 advocate shall meet with the person to discuss the  
7 capacity hearing process and to assist the person in  
8 preparing for the capacity hearing and to answer  
9 questions or to otherwise assist the person, as is  
10 appropriate.

11 SEC. 20. Section 5334 of the Welfare and Institutions  
12 Code is repealed.

13 5334. (a) Capacity hearings required by Section 5332  
14 shall be heard within 24 hours of the filing of the petition  
15 whenever possible. However, if any party needs  
16 additional time to prepare for the hearing, the hearing  
17 shall be postponed for 24 hours. In case of hardship,  
18 hearings may also be postponed for an additional 24 hours,  
19 pursuant to local policy developed by the county mental  
20 health director and the presiding judge of the superior  
21 court regarding the scheduling of hearings. The policy  
22 developed pursuant to this subdivision shall specify  
23 procedures for the prompt filing and processing of  
24 petitions to ensure that the deadlines set forth in this  
25 section are met, and shall take into consideration the  
26 availability of advocates and the treatment needs of the  
27 patient. In no event shall hearings be held beyond 72  
28 hours of the filing of the petition. The person who is the  
29 subject of the petition and his or her advocate or counsel  
30 shall receive a copy of the petition at the time it is filed.

31 (b) Capacity hearings shall be held in an appropriate  
32 location at the facility where the person is receiving  
33 treatment, and shall be held in a manner compatible with,  
34 and the least disruptive of, the treatment being provided  
35 to the person.

36 (c) Capacity hearings shall be conducted by a superior  
37 court judge, a court-appointed commissioner or referee,  
38 or a court-appointed hearing officer. All commissioners,  
39 referees, and hearing officers shall be appointed by the  
40 superior court from a list of attorneys unanimously



1 approved by a panel composed of the local mental health  
2 director, the county public defender, and the county  
3 counsel or district attorney designated by the county  
4 board of supervisors. No employee of the county mental  
5 health program or of any facility designated by the county  
6 and approved by the department as a facility for 72-hour  
7 treatment and evaluation may serve as a hearing officer.  
8 All hearing officers shall receive training in the issues  
9 specific to capacity hearings.

10 (d) The person who is the subject of the capacity  
11 hearing shall be given oral notification of the  
12 determination at the conclusion of the capacity hearing.  
13 As soon thereafter as is practicable, the person, his or her  
14 counsel or advocate, and the director of the facility where  
15 the person is receiving treatment shall be provided with  
16 written notification of the capacity determination, which  
17 shall include a statement of the evidence relied upon and  
18 the reasons for the determination. A copy of the  
19 determination shall be submitted to the superior court.

20 (e) (1) The person who is the subject of the capacity  
21 hearing may appeal the determination to the superior  
22 court or the court of appeal.

23 (2) The person who has filed the original petition for  
24 a capacity hearing may request the district attorney or  
25 county counsel in the county in which the person is  
26 receiving treatment to appeal the determination to the  
27 superior court or the court of appeal, on behalf of the  
28 state.

29 (3) Nothing shall prohibit treatment from being  
30 initiated pending appeal of a determination of incapacity  
31 pursuant to this section.

32 (4) Nothing in this section shall be construed to  
33 preclude the right of a person to bring a writ of habeas  
34 corpus pursuant to Section 5275, subject to the provisions  
35 of this chapter.

36 (f) All appeals to the superior court pursuant to this  
37 section shall be subject to de novo review.

38 SEC. 21. Section 5336 of the Welfare and Institutions  
39 Code is repealed.



1 ~~5336. Any determination of a person's incapacity to~~  
 2 ~~refuse treatment with antipsychotic medication made~~  
 3 ~~pursuant to Section 5334 shall remain in effect only for the~~  
 4 ~~duration of the detention period described in Section~~  
 5 ~~5150 or 5250, or both, or until capacity has been restored~~  
 6 ~~according to standards developed pursuant to subdivision~~  
 7 ~~(e) of Section 5332, or by court determination, whichever~~  
 8 ~~is sooner.~~

9 SEC. 22. Section 5350 of the Welfare and Institutions  
 10 Code is amended to read:

11 5350. A conservator of the person, of the estate, or of  
 12 the person and the estate may be appointed for any  
 13 person who is gravely disabled as a result of mental  
 14 disorder or impairment by chronic alcoholism.

15 The procedure for establishing, administering, and  
 16 terminating a conservatorship under this chapter shall be  
 17 the same as that provided in Division 4 (commencing  
 18 with Section 1400) of the Probate Code, except as follows:

19 (a) A conservator may be appointed for a gravely  
 20 disabled minor.

21 (b) (1) Appointment of a conservator under this part,  
 22 including the appointment of a conservator for a person  
 23 who is gravely disabled, as defined in subparagraph (A)  
 24 of paragraph (1) of subdivision (h) of Section 5008, shall  
 25 be subject to the list of priorities in Section 1812 of the  
 26 Probate Code unless the officer providing  
 27 conservatorship investigation recommends otherwise to  
 28 the superior court.

29 (2) In appointing a conservator, as defined in  
 30 subparagraph (B) of paragraph (1) of subdivision (h) of  
 31 Section 5008, the court shall consider the purposes of  
 32 protection of the public and the treatment of the  
 33 conservatee.

34 (c) No conservatorship of the estate pursuant to this  
 35 chapter shall be established if a conservatorship or  
 36 guardianship of the estate exists under the Probate Code.  
 37 When a gravely disabled person already has a guardian or  
 38 conservator of the person appointed under the Probate  
 39 Code, the proceedings under this chapter shall not  
 40 terminate the prior proceedings but shall be concurrent



1 with and superior thereto. The superior court may  
2 appoint the existing guardian or conservator of the  
3 person or another person as conservator of the person  
4 under this chapter.

5 (d) The person for whom conservatorship is sought  
6 shall have the right to demand a court or jury trial on the  
7 issue whether he or she is gravely disabled. *The issue shall*  
8 *be proved by clear and convincing evidence.* Demand for  
9 court or jury trial shall be made within five days following  
10 the hearing on the conservatorship petition. If the  
11 proposed conservatee demands a court or jury trial  
12 before the date of the hearing as provided for in Section  
13 5365, the demand shall constitute a waiver of the hearing.

14 Court or jury trial shall commence within 10 days of the  
15 date of the demand, except that the court shall continue  
16 the trial date for a period not to exceed 15 days upon the  
17 request of counsel for the proposed conservatee.

18 This right shall also apply in subsequent proceedings to  
19 reestablish conservatorship.

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

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

31 (3) The purpose of this subdivision is to avoid the  
32 necessity for, and the harmful effects of, requiring family,  
33 friends, and others to publicly state, and requiring the  
34 court to publicly find, that no one is willing or able to assist  
35 the mentally disordered person in providing for the  
36 person’s basic needs for food, clothing, or shelter.

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



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

5 (g) Notice of proceedings under this chapter shall be  
6 given to a guardian or conservator of the person or estate  
7 of the proposed conservatee appointed under the  
8 Probate Code.

9 (h) As otherwise provided in this chapter.

10 SEC. 23. The sum of three hundred fifty million  
11 dollars (\$350,000,000) is appropriated from the General  
12 Fund to the Controller for allocation for the purposes of  
13 this act.

14

