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CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1800

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

January 27, 2000

An act to amend Section 2600 of the Penal Code, to amend Sections 5008, 5250, 5256.5, 5256.6, 5257, ~~5259.3, 5270.15, 5270.55~~, 5300, 5301, 5304, 5332, 5334, 5336, and 5350 of, to add Section 4013 to, and to ~~repeal and add Article 4.5~~ *add Article 4.8* (commencing with Section ~~5260~~ *of 5280*) to Chapter 2 of Part 1 of Division 5 of, the Welfare and Institutions Code, relating to health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1800, as amended, 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 outpatient 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. It would also permit persons diagnosed with severe and persistent mental illness to receive treatment in community assisted outpatient treatment programs if certain conditions are met.

Existing law establishes procedures for the provision of psychotropic drugs to patients who have been certified for involuntary treatment.

The bill would revise procedures for the determination of whether a person who is certified to be involuntarily detained



for involuntary care, protection, and treatment lacks capacity to refuse treatment with psychotropic drugs.

The bill would require the department to provide training and technical assistance to counties, mental health providers contracting with the counties, and other individuals, including, but not limited to, mental health professionals, law enforcement officials, and certification hearing officers involved in making treatment and involuntary commitment decisions.

The bill would also require the department to require counties to submit certain information to the department, and would require the department to report to the Legislature on or before April 1, 2002, on the effectiveness of the bill and recommendations relative to how involuntary treatment is being implemented. By requiring counties to provide certain information to the department, this bill would result in a state-mandated local program.

This bill would appropriate \$350,000,000 to the State Department of Mental Health for allocation to participating counties.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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



1 deprived of such rights, and only such rights, as is
2 reasonably related to legitimate penological interests.

3 Nothing in this section shall be construed to permit the
4 involuntary administration of psychotropic medication
5 unless the process specified in the permanent injunction,
6 dated October 31, 1986, in the matter of Keyhea v.
7 Rushen, 178 Cal.App.3d 526, has been followed. In
8 addition, the process shall utilize the definition of
9 “gravely disabled” in subdivision (h) of Section 5008 of
10 the Welfare and Institutions Code, and who are routinely
11 provided with food, clothing, and shelter by the penal
12 institution. The judicial hearing for the authorization for
13 the involuntary administration of psychotropic
14 medication provided for in Part III of the injunction shall
15 be conducted by an administrative law judge. The
16 hearing may, at the direction of the director, be
17 conducted at the facility where the inmate is located.

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

20 SEC. 1.5. Section 4013 is added to the Welfare and
21 Institutions Code, to read:

22 4013. (a) The department shall provide training and
23 technical assistance to counties, mental health providers
24 contracting with the counties, and other individuals,
25 including, but not limited to, mental health professionals,
26 law enforcement officials, and certification hearing
27 officers involved in making treatment and involuntary
28 commitment decisions.

29 (b) The training required by subdivision (a) shall
30 include all of the following:

31 (1) Information relative to legal requirements for
32 detaining a person for involuntary inpatient treatment or
33 community-assisted outpatient care, including criteria to
34 be considered with respect to determining if a person is
35 considered to be gravely disabled.

36 (2) Methods for ensuring that decisions made
37 regarding involuntary treatment as provided for in
38 Sections 5150 and 5250 direct patients toward the most
39 effective treatment.



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

3 5008. Unless the context otherwise requires, the
4 following definitions shall govern the construction of this
5 part:

6 (a) "Evaluation" consists of multidisciplinary
7 professional analyses of a person's medical, psychological,
8 educational, social, financial, and legal conditions as may
9 appear to constitute a problem. Persons providing
10 evaluation services shall be properly qualified
11 professionals and may be full-time employees of an
12 agency providing evaluation services or may be part-time
13 employees or may be employed on a contractual basis.

14 (b) "Court-ordered evaluation" means an evaluation
15 ordered by a superior court pursuant to Article 2
16 (commencing with Section 5200) or by a court pursuant
17 to Article 3 (commencing with Section 5225) of Chapter
18 2.

19 (c) "Intensive treatment" consists of such hospital and
20 other services as may be indicated. Intensive treatment
21 shall be provided by properly qualified professionals and
22 carried out in facilities qualifying for reimbursement
23 under the California Medical Assistance Program
24 (Medi-Cal) set forth in Chapter 7 (commencing with
25 Section 14000) of Part 3 of Division 9, or under Title XVIII
26 of the federal Social Security Act and regulations
27 thereunder. Intensive treatment may be provided in
28 hospitals of the United States government by properly
29 qualified professionals. Nothing in this part shall be
30 construed to prohibit an intensive treatment facility from
31 also providing 72-hour treatment and evaluation.

32 (d) "Referral" is referral of persons by each agency or
33 facility providing intensive treatment or evaluation
34 services to other agencies or individuals. The purpose of
35 referral shall be to provide for continuity of care, and may
36 include, but need not be limited to, informing the person
37 of available services, making appointments on the
38 person's behalf, discussing the person's problem with the
39 agency or individual to which the person has been
40 referred, appraising the outcome of referrals, and



1 arranging for personal escort and transportation when
2 necessary. Referral shall be considered complete when
3 the agency or individual to whom the person has been
4 referred accepts responsibility for providing the
5 necessary services. All persons shall be advised of
6 available precare services which prevent initial recourse
7 to hospital treatment or aftercare services which support
8 adjustment to community living following hospital
9 treatment. These services may be provided through
10 county welfare departments, State Department of
11 Mental Health, Short-Doyle programs or other local
12 agencies.

13 Each agency or facility providing evaluation services
14 shall maintain a current and comprehensive file of all
15 community services, both public and private. These files
16 shall contain current agreements with agencies or
17 individuals accepting referrals, as well as appraisals of the
18 results of past referrals.

19 (e) "Crisis intervention" consists of an interview or
20 series of interviews within a brief period of time,
21 conducted by qualified professionals, and designed to
22 alleviate personal or family situations which present a
23 serious and imminent threat to the health or stability of
24 the person or the family. The interview or interviews may
25 be conducted in the home of the person or family, or on
26 an inpatient or outpatient basis with such therapy, or
27 other services, as may be appropriate. Crisis intervention
28 may, as appropriate, include suicide prevention,
29 psychiatric, welfare, psychological, legal, or other social
30 services.

31 (f) "Prepetition screening" is a screening of all
32 petitions for court-ordered evaluation as provided in
33 Article 2 (commencing with Section 5200) of Chapter 2,
34 consisting of a professional review of all petitions; an
35 interview with the petitioner and, whenever possible, the
36 person alleged, as a result of mental disorder, to be a
37 danger to others, or to himself or herself, or to be gravely
38 disabled, to assess the problem and explain the petition;
39 when indicated, efforts to persuade the person to receive,
40 on a voluntary basis, comprehensive evaluation, crisis



1 intervention, referral, and other services specified in this
2 part.

3 (g) “Conservatorship investigation” means
4 investigation by an agency appointed or designated by
5 the governing body of cases in which conservatorship is
6 recommended pursuant to Chapter 3 (commencing with
7 Section 5350).

8 (h) (1) For purposes of Article 1 (commencing with
9 Section 5150), Article 2 (commencing with Section 5200),
10 and Article 4 (commencing with Section 5250) of
11 Chapter 2, and for the purposes of Chapter 3
12 (commencing with Section 5350), “gravely disabled”
13 means either of the following:

14 (A) A condition in which a person, as a result of a
15 mental disorder, is unable to provide for his or her basic
16 personal needs for food, clothing, or shelter, or presents,
17 as a result of mental disorder, an acute risk of physical or
18 psychiatric harm to the person in the absence of
19 treatment.

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

23 (i) The indictment or information pending against the
24 defendant at the time of commitment charges a felony
25 involving death, great bodily harm, or a serious threat to
26 the physical well-being of another person.

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

29 (iii) As a result of mental disorder, the person is unable
30 to understand the nature and purpose of the proceedings
31 taken against him or her and to assist counsel in the
32 conduct of his or her defense in a rational manner.

33 (2) For purposes of Article 3 (commencing with
34 Section 5225) and Article 4 (commencing with Section
35 5250), of Chapter 2, and for the purposes of Chapter 3
36 (commencing with Section 5350), “gravely disabled”
37 means a condition in which a person, as a result of
38 impairment by chronic alcoholism, is unable to provide
39 for his or her basic personal needs for food, clothing, or
40 shelter.



1 (3) The term “gravely disabled” does not include
2 mentally retarded persons by reason of being mentally
3 retarded alone.

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

12 (j) “Postcertification treatment” means an additional
13 period of treatment pursuant to Article 6 (commencing
14 with Section 5300) of Chapter 2.

15 (k) “Court,” unless otherwise specified, means a court
16 of record.

17 (l) “Antipsychotic medication” means any medication
18 customarily prescribed for the treatment of symptoms of
19 psychoses and other severe mental and emotional
20 disorders.

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

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

30 5250. If a person is detained for 72 hours under the
31 provisions of Article 1 (commencing with Section 5150),
32 or under court order for evaluation pursuant to Article 2
33 (commencing with Section 5200) or Article 3
34 (commencing with Section 5225) and has received an
35 evaluation, he or she may be certified for not more than
36 ~~28~~ 14 days of intensive treatment related to the mental
37 disorder or impairment by chronic alcoholism, under the
38 following conditions:

39 (a) The professional staff of the agency or facility
40 providing evaluation services has analyzed the person’s



1 condition and has found the person is, as a result of mental
2 disorder or impairment by chronic alcoholism, a danger
3 to others, or to himself or herself, or gravely disabled.

4 (b) The facility providing intensive treatment is
5 designated by the county to provide intensive treatment,
6 and agrees to admit the person. No facility shall be
7 designated to provide intensive treatment unless it
8 complies with the certification review hearing required
9 by this article. The procedures shall be described in the
10 county Short-Doyle plan.

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

14 (d) (1) Notwithstanding paragraph (1) of subdivision
15 (h) of Section 5008, a person is not “gravely disabled” if
16 that person can survive safely without involuntary
17 detention with the help of responsible family, friends, or
18 others who are both willing and able to help provide for
19 the person’s basic personal needs for food, clothing, or
20 shelter and who are willing and able to assist the person
21 in meeting his or her medical and psychiatric needs.

22 (2) However, unless they specifically indicate in
23 writing their willingness and ability to help, family,
24 friends, or others shall not be considered willing or able
25 to provide this help.

26 (3) The purpose of this subdivision is to avoid the
27 necessity for, and the harmful effects of, requiring family,
28 friends, and others to publicly state, and requiring the
29 certification review officer to publicly find, that no one is
30 willing or able to assist the mentally disordered person in
31 providing for the person’s basic needs for food, clothing,
32 or shelter.

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

35 5256.5. If at the conclusion of the certification review
36 hearing the person conducting the hearing finds that
37 there is not probable cause to believe that the person
38 certified should be involuntarily detained, then the
39 person certified may no longer be involuntarily detained.
40 Nothing in this section shall prohibit the person from



1 remaining at the facility on a voluntary basis or the facility
2 from providing the person with appropriate referral
3 information concerning mental health services.

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

6 5256.6. (a) If at the conclusion of the certification
7 review hearing the person conducting the hearing
8 determines that there is probable cause to believe that
9 the person certified should be involuntarily detained,
10 that person may be detained for involuntary care,
11 protection, and treatment related to the mental disorder
12 or impairment by chronic alcoholism for which he or she
13 is involuntarily detained.

14 (b) If the person certified refuses treatment with
15 psychotropic medication within the meaning of Section
16 5332, the person conducting the hearing shall also
17 determine whether the person certified lacks capacity to
18 make an informed refusal of the treatment. If the hearing
19 officer determines that the person certified lacks capacity
20 to refuse the treatment, the person certified may be
21 treated with psychotropic medications without consent
22 during the period of certification.

23 (c) At the request of the patient, the decisions of the
24 certification hearing officer may be reviewed by the
25 court pursuant to Section 5275. The court shall consider
26 issues of the patient's capacity by hearing evidence de
27 novo, as provided in subdivision (f) of Section 5334.
28 Unless good cause is shown to the contrary, all capacity
29 hearings in the superior court relating to the patient's
30 capacity to refuse treatment by psychotropic medications
31 shall be heard concurrently with the judicial review
32 provided for in Section 5275.

33 (d) If the person conducting the certification hearing
34 determines that the patient does not lack capacity to
35 refuse treatment by psychotropic medications, judicial
36 review of the decision may be initiated by the director or
37 the director's designee pursuant to subdivision (b) of
38 Section 5333 and paragraph (2) of subdivision (e) of
39 Section 5334. The superior court shall conduct the



1 hearing de novo, as provided in subdivision (f) of Section
2 5334.

3 (e) If any person is certified for intensive medical
4 treatment pursuant to this section, the agency or facility
5 providing the treatment shall acquire his or her
6 medication history.

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

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

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

39 (a) Agrees to receive further treatment on a voluntary
40 basis.



1 (b) Is certified for an additional 180 days of community
 2 assisted outpatient treatment pursuant to Article 4.5
 3 (commencing with Section 5260).

4 (c) *Is certified for an additional 14 days of intensive*
 5 *treatment pursuant to Article 4.5 (commencing with*
 6 *Section 5260).*

7 (d) Is certified for an additional 30 days of intensive
 8 treatment pursuant to Article 4.7 (commencing with
 9 Section 5270.10).

10 ~~(d)~~

11 (e) Is the subject of a conservatorship petition filed
 12 pursuant to Chapter 3 (commencing with Section 5350).

13 ~~(e)~~

14 (f) Is the subject of a Petition for Postcertification of a
 15 Dangerous Person filed pursuant to Article 6
 16 (commencing with Section 5300).

17 ~~SEC. 7. Section 5259.3 of the Welfare and Institutions~~
 18 ~~Code is amended to read:~~

19 ~~5259.3. (a) Notwithstanding Section 5113, if the~~
 20 ~~provisions of Section 5257 have been met, the professional~~
 21 ~~person in charge of the facility providing intensive~~
 22 ~~treatment, his or her designee, the medical director of the~~
 23 ~~facility or his or her designee described in Section 5257,~~
 24 ~~and the psychiatrist directly responsible for the person's~~
 25 ~~treatment shall not be held civilly or criminally liable for~~
 26 ~~any action by a person released before the end of 28 days~~
 27 ~~pursuant to this article.~~

28 ~~(b) The professional person in charge of the facility~~
 29 ~~providing intensive treatment, his or her designee, the~~
 30 ~~medical director of the facility or his or her designee~~
 31 ~~described in Section 5257, and the psychiatrist directly~~
 32 ~~responsible for the person's treatment shall not be held~~
 33 ~~civilly or criminally liable for any action by a person~~
 34 ~~released at the end of the 28 days pursuant to this article.~~

35 ~~(c) The attorney or advocate representing the person,~~
 36 ~~the court-appointed commissioner or referee, the~~
 37 ~~certification review hearing officer conducting the~~
 38 ~~certification review hearing, and the peace officer~~
 39 ~~responsible for the detainment of the person shall not be~~
 40 ~~civilly or criminally liable for any action by a person~~



1 released at or before the end of 28 days pursuant to this
2 article.

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

6 ~~SEC. 9. Article 4.5 (commencing with Section 5260)~~
7 *SEC. 7. Article 4.8 (commencing with Section 5280)*
8 is added to Chapter 2 of Part 1 of Division 5 of the Welfare
9 and Institutions Code, to read:

10

11 Article 4.5—4.8. Community Assisted Outpatient
12 Treatment Programs

13

14 ~~5260.—~~

15 5280. Persons committed pursuant to Sections 5150,
16 5250, 5260, and 5270.15 shall be placed in community
17 assisted outpatient treatment programs for 180 days if all
18 of the following conditions exist:

19 (a) A hearing officer finds that he or she requires
20 continuing treatment and care under supervised
21 conditions to maintain and improve recovery and the
22 person is sufficiently stable to benefit from community
23 treatment in an appropriate unlocked setting.

24 (b) The person agrees to community assisted
25 outpatient treatment.

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

28 (d) A community treatment plan is prepared by the
29 multidisciplinary outpatient treatment team.

30 ~~5260.1.—~~

31 5280.1. A community assisted outpatient treatment
32 program shall include all of the following:

33 (a) (1) A multidisciplinary team of providers
34 consisting of a combination of physicians, psychologists,
35 and other licensed mental health providers, nurses, social
36 workers, substance abuse specialists, vocational
37 rehabilitation counselors, peer counselors, and an assisted
38 outpatient care expediter. This team shall, in consultation
39 with the client and any family members involved in the
40 client's day-to-day care, develop and implement an



1 individualized community assisted outpatient treatment
2 program to ensure the client receives all necessary
3 support and care to maximize the effectiveness of
4 treatment and reduce the risk of noncompliance and
5 subsequent custodial retention pursuant to Section 5150.

6 (2) For purposes of this article, “assisted outpatient
7 care expediter” means one who will coordinate all
8 services provided to the client pursuant to this section.

9 (b) The treatment plan shall include all of the
10 following:

11 (1) Immediate crisis response 24 hours a day, seven
12 days a week.

13 (2) Direct coordination of all medical, psychiatric, and
14 general health care.

15 (3) Help in managing symptoms of mental illness.

16 (4) Provision and supervision of prescribed
17 medication.

18 (5) Supportive therapy including dual diagnosis.

19 (6) Periodic blood or urine testing to verify
20 compliance, if the treatment team has reason to believe
21 that the patient is not complying with the treatment plan,
22 and the tests are mandated by court order.

23 (7) Individual or group therapy, or both.

24 (8) Day or partial day programs.

25 (9) Family support and outreach.

26 (10) Client-site requested support in coping with life’s
27 daily demands including assistance with any or all of the
28 following:

29 (A) Obtaining financial entitlements through the
30 federal Supplemental Security Income (SSI) program,
31 the federal Social Security Disability Insurance (SSDI)
32 program, and the Medi-Cal program.

33 (B) Obtaining available insurance coverage.

34 (C) Accessing housing and residential vouchers.

35 (D) Learning how to live independently or with a
36 roommate.

37 (E) Accessing treatment for coexisting substance
38 abuse.

39 (F) Accessing vocational service and helping to find
40 employment.



1 (G) Dealing with legal issues.

2 ~~5261.—~~

3 ~~5281.~~ In the event the patient does not or cannot
4 abide by the terms of the agreed upon community
5 treatment plan, including medication compliance, and
6 the person poses an acute risk of physical or psychiatric
7 deterioration, the person may, by court order, be
8 returned to inpatient treatment for the remaining days
9 of the underlying involuntary treatment certification.

10 ~~5262.—~~

11 ~~5282.~~ Persons diagnosed with severe and persistent
12 mental illness may receive treatment in community
13 assisted outpatient treatment programs for 180 days if all
14 of the following requirements are met:

15 (a) The person agrees to community assisted
16 outpatient treatment.

17 (b) The person does not present an immediate harm
18 to self or others.

19 (c) A community treatment plan is prepared by the
20 multidisciplinary outpatient treatment team and is
21 agreed to by all parties.

22 ~~SEC. 10. Section 5270.15 of the Welfare and~~
23 ~~Institutions Code is amended to read:~~

24 ~~5270.15. Upon the completion of a 28-day period of~~
25 ~~intensive treatment pursuant to Section 5250, the person~~
26 ~~may be certified for an additional period of not more than~~
27 ~~30 days of intensive treatment under both of the following~~
28 ~~conditions:~~

29 (a) ~~The professional staff of the agency or facility~~
30 ~~treating the person has found that the person remains~~
31 ~~gravely disabled as a result of a mental disorder or~~
32 ~~impairment by chronic alcoholism.~~

33 (b) ~~The person remains unwilling or unable to accept~~
34 ~~treatment voluntarily.~~

35 ~~Any person certified for an additional 30 days pursuant~~
36 ~~to this article shall be provided a certification review~~
37 ~~hearing in accordance with Section 5256 unless a judicial~~
38 ~~review is requested pursuant to Article 5 (commencing~~
39 ~~with Section 5275).~~



1 The professional staff of the agency or facility providing
2 intensive treatment shall analyze the person's condition
3 at intervals of not to exceed 10 days, to determine
4 whether the person continues to meet the criteria
5 established for certification under this section, and shall
6 daily monitor the person's treatment plan and progress.
7 Termination of this certification prior to the 30th day shall
8 be made pursuant to Section 5270.35.

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

11 5270.55. (a) Whenever it is contemplated that a
12 gravely disabled person may need to be detained beyond
13 the end of the 28-day period of intensive treatment and
14 prior to proceeding with an additional 30-day
15 certification, the professional person in charge of the
16 facility shall cause an evaluation to be made, based on the
17 patient's current condition and past history, as to whether
18 it appears that the person, even after up to 30 days of
19 additional treatment, is likely to qualify for appointment
20 of a conservator. If the appointment of a conservator
21 appears likely, the conservatorship referral shall be made
22 during the 28-day period of intensive treatment.

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

27 (c) Where no conservatorship referral has been made
28 during the 28-day period and where during the 30-day
29 certification it appears that the person is likely to require
30 the appointment of a conservator, then the
31 conservatorship referral shall be made to allow sufficient
32 time for conservatorship investigation and other related
33 procedures. If a temporary conservatorship is obtained,
34 it shall run concurrently with and not consecutively to the
35 30-day certification period. The conservatorship hearing
36 shall be held by the 30th day of the certification period.
37 The maximum involuntary detention period for gravely
38 disabled persons pursuant to Sections 5150, 5250 and
39 5270.15 shall be limited to 61 days. Nothing in this section



1 ~~shall prevent a person from exercising his or her right to~~
2 ~~a hearing as stated in Sections 5275 and 5353.~~

3 ~~SEC. 12.—~~

4 SEC. 8. Section 5300 of the Welfare and Institutions
5 Code is amended to read:

6 5300. (a) At the expiration of the ~~28-day~~ 14-day
7 period of intensive treatment, a person may be confined
8 for further treatment pursuant to the provisions of this
9 article for an additional period, not to exceed one year if
10 it is proved ~~by clear and convincing evidence~~ *beyond a*
11 *reasonable doubt* that one of the following exists:

12 (1) The person has attempted, inflicted, or made a
13 serious threat of substantial physical harm upon the
14 person of another after having been taken into custody,
15 and while in custody, for evaluation and treatment, and
16 who, as a result of mental disorder or mental defect,
17 presents a demonstrated danger of inflicting substantial
18 physical harm upon others.

19 (2) The person had attempted, or inflicted physical
20 harm upon the person of another, that act having resulted
21 in his or her being taken into custody and who presents,
22 as a result of mental disorder or mental defect, a
23 demonstrated danger of inflicting substantial physical
24 harm upon others.

25 (3) The person had made a serious threat of substantial
26 physical harm upon the person of another within seven
27 days of being taken into custody, that threat having at
28 least in part resulted in his or her being taken into
29 custody, and the person presents, as a result of mental
30 disorder or mental defect, a demonstrated danger of
31 inflicting substantial physical harm upon others.

32 (b) Any commitment to a licensed health facility
33 under this article places an affirmative obligation on the
34 facility to provide treatment for the underlying causes of
35 the person's mental disorder.

36 (c) Amenability to treatment is not required for a
37 finding that any person is a person as described in
38 paragraph (1), (2), or (3) of subdivision (a). Treatment
39 programs need only be made available to these persons.
40 Treatment does not mean that the treatment be



1 successful or potentially successful, and it does not mean
2 that the person must recognize his or her problem and
3 willingly participate in the treatment program.

4 ~~SEC. 13.—~~

5 SEC. 9. Section 5301 of the Welfare and Institutions
6 Code is amended to read:

7 5301. At any time during the ~~28-day~~ 14-day intensive
8 treatment period the professional person in charge of the
9 licensed health facility, or his or her designee, may ask the
10 public officer required by Section 5114 to present
11 evidence at proceedings under this article to petition the
12 superior court in the county in which the licensed health
13 facility providing treatment is located for an order
14 requiring the person to undergo an additional period of
15 treatment on the grounds set forth in Section 5300. The
16 petition shall summarize the facts that support the
17 contention that the person falls within the standard set
18 forth in Section 5300. The petition shall be supported by
19 affidavits describing in detail the behavior that indicates
20 that the person falls within the standard set forth in
21 Section 5300.

22 Copies of the petition for postcertification treatment
23 and the affidavits in support thereof shall be served upon
24 the person named in the petition on the same day as they
25 are filed with the clerk of the superior court.

26 The petition shall be in the following form:

27

28 Petition for Postcertification Treatment of a
29 Dangerous Person

30

31 I, _____, (the professional person in charge of the
32 _____ intensive treatment facility) (the designee of
33 _____ the professional person in charge of the
34 _____, treatment facility) in which _____ has been
35 under treatment pursuant to the certification by _____
36 and _____, hereby petition the court for an order
37 requiring _____ to undergo an additional period of
38 treatment, not to exceed one year, pursuant to the
39 provisions of Article 6 (commencing with Section 5300)
40 of Chapter 2 of Part 1 of Division 5 of the Welfare and



1 Institutions Code. The petition is based upon my
 2 allegation that (a) _____ has attempted, inflicted, or
 3 made a serious threat of substantial physical harm upon
 4 the person of another after having been taken into
 5 custody, and while in custody, for evaluation, and that, by
 6 reason of mental disorder or mental defect, presents a
 7 demonstrated danger of inflicting substantial physical
 8 harm upon others, or that (b) _____ had attempted or
 9 inflicted physical harm upon the person of another, that
 10 act having resulted in his or her being taken into custody,
 11 and that he or she presents, as a result of mental disorder
 12 or mental defect, a demonstrated danger of inflicting
 13 substantial physical harm upon others, or that (c)
 14 _____ had made a serious threat of substantial physical
 15 harm upon the person of another within seven days of
 16 being taken into custody, that threat having at least in
 17 part resulted in his or her being taken into custody, and
 18 that he or she presents, as a result of mental disorder or
 19 mental defect, a demonstrated danger of inflicting
 20 substantial physical harm upon others.

21 My allegation is based upon the following facts:

22 _____
 23 _____
 24 _____
 25 _____
 26 _____
 27 _____
 28 _____

29 This allegation is supported by the accompanying
 30 affidavits signed by _____.

31
 32 Signed _____

33
 34 The courts may receive the affidavits in evidence and
 35 may allow the affidavits to be read to the jury and the
 36 contents thereof considered in rendering a verdict, unless
 37 counsel for the person named in the petition subpoenas
 38 the treating professional person. If the treating
 39 professional person is subpoenaed to testify, the public



1 officer, pursuant to Section 5114, shall be entitled to a
2 continuance of the hearing or trial.

3 ~~SEC. 14.~~

4 *SEC. 10.* Section 5304 of the Welfare and Institutions
5 Code is amended to read:

6 5304. (a) The court shall remand a person named in
7 the petition for postcertification treatment to the custody
8 of the State Department of Mental Health or to a licensed
9 health facility designated by the county of residence of
10 that person for a further period of intensive treatment not
11 to exceed one year from the date of court judgment, if the
12 court or jury, *beyond a reasonable doubt*, finds that the
13 person named in the petition for postcertification
14 treatment has done any of the following:

15 (1) Attempted, inflicted, or made a serious threat of
16 substantial physical harm upon the person of another
17 after having been taken into custody, and while in
18 custody, for evaluation and treatment, and who, as a
19 result of mental disorder or mental defect, presents a
20 demonstrated danger of inflicting substantial physical
21 harm upon others.

22 (2) Attempted or inflicted physical harm upon the
23 person of another, that act having resulted in his or her
24 being taken into custody, and who, as a result of mental
25 disorder or mental defect, presents a demonstrated
26 danger of inflicting substantial physical harm upon
27 others.

28 (3) Expressed a serious threat of substantial physical
29 harm upon the person of another within seven days of
30 being taken into custody, that threat having at least in
31 part resulted in his or her being taken into custody, and
32 who presents, as a result of mental disorder or mental
33 defect, a demonstrated danger of inflicting substantial
34 physical harm upon others.

35 (b) The person shall be released from involuntary
36 treatment at the expiration of one year unless the public
37 officer, pursuant to Section 5114, files a new petition for
38 postcertification treatment on the grounds that he or she
39 has attempted, inflicted, or made a serious threat of
40 substantial physical harm upon another during his or her



1 period of postcertification treatment, and he or she is a
2 person who by reason of mental disorder or mental
3 defect, presents a demonstrated danger of inflicting
4 substantial physical harm upon others. The new petition
5 for postcertification treatment shall be filed in the
6 superior court in which the original petition for
7 postcertification was filed.

8 (c) The county from which the person was remanded
9 shall bear any transportation costs incurred pursuant to
10 this section.

11 ~~SEC. 15.—~~

12 *SEC. 11.* Section 5332 of the Welfare and Institutions
13 Code is amended to read:

14 5332. (a) Antipsychotic medication, as defined in
15 subdivision (l) of Section 5008, may be administered to
16 any person subject to detention pursuant to Section 5150,
17 5250, 5260, or 5270.15, if that person does not refuse that
18 medication following disclosure of the right to refuse
19 medication as well as information required to be given to
20 persons pursuant to subdivision (c) of Section 5152 and
21 subdivision (b) of Section 5213.

22 (b) If any person subject to detention pursuant to
23 Section 5150, 5250, 5260, or 5270.15, and for whom
24 antipsychotic medication has been prescribed, orally
25 refuses or gives other indication of refusal of treatment
26 with that medication, the medication shall only be
27 administered when treatment staff have considered and
28 determined that treatment alternatives to involuntary
29 medication are unlikely to meet the needs of the patient,
30 and upon a determination of that person's incapacity to
31 refuse the treatment, in a hearing held for that purpose.

32 (c) For those patients who have not already been
33 determined to lack the capacity to refuse treatment with
34 psychotropic medications pursuant to Section 5256.6,
35 each hospital in conjunction with the hospital medical
36 staff or any other treatment facility in conjunction with
37 its clinical staff shall develop internal procedures for
38 facilitating the filing of petitions for capacity hearings and
39 other activities required pursuant to this chapter. At the
40 time a facility providing intensive medical treatment



1 under this section notifies the court of the certifications
2 for additional treatment, the facility shall also notify the
3 court that the patient is refusing psychotropic medication
4 and whether the patient has requested a finding
5 regarding his or her capacity to refuse the psychotropic
6 medication.

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

17 (e) If any person is certified for intensive medical
18 treatment pursuant to this section, the agency or facility
19 providing the treatment shall acquire his or her
20 medication history.

21 ~~SEC. 16.—~~

22 *SEC. 12.* Section 5334 of the Welfare and Institutions
23 Code is amended to read:

24 5334. (a) Capacity hearings required by Section 5332
25 shall be heard within 24 hours of the filing of the petition
26 whenever possible. However, if any party needs
27 additional time to prepare for the hearing, the hearing
28 shall be postponed for 24 hours. In case of hardship,
29 hearings may also be postponed for an additional 24 hours,
30 pursuant to local policy developed by the county mental
31 health director and the presiding judge of the superior
32 court regarding the scheduling of hearings. The policy
33 developed pursuant to this subdivision shall specify
34 procedures for the prompt filing and processing of
35 petitions to ensure that the deadlines set forth in this
36 section are met, and shall take into consideration the
37 availability of advocates and the treatment needs of the
38 patient. In no event shall hearings be held beyond 72
39 hours of the filing of the petition. The person who is the



1 subject of the petition and his or her advocate or counsel
2 shall receive a copy of the petition at the time it is filed.

3 (b) Capacity hearings shall be held in an appropriate
4 location at the facility where the person is receiving
5 treatment, and shall be held in a manner compatible with,
6 and the least disruptive of, the treatment being provided
7 to the person.

8 (c) Capacity hearings shall be conducted by those
9 individuals authorized to conduct certification review
10 hearings pursuant to Section 5256.1. All hearing officers
11 shall receive training in the issues specific to capacity
12 hearings.

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

23 (e) (1) The person who is the subject of the capacity
24 hearing may appeal the determination to the superior
25 court or the court of appeal.

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

32 (3) Nothing shall prohibit treatment from being
33 initiated pending appeal of a determination of incapacity
34 pursuant to this section.

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

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



1 ~~SEC. 17.~~—

2 *SEC. 13.* Section 5336 of the Welfare and Institutions
3 Code is amended to read:

4 5336. Any determination of a person’s incapacity to
5 refuse treatment with antipsychotic medication made
6 pursuant to Section 5256.6 or 5334 shall remain in effect
7 only for the duration of the detention period described in
8 Section 5150 or 5250, or both, or until capacity has been
9 restored according to standards developed pursuant to
10 subdivision (c) of Section 5332, or by court
11 determination, whichever is sooner.

12 ~~SEC. 18.~~—

13 *SEC. 14.* Section 5350 of the Welfare and Institutions
14 Code is amended to read:

15 5350. A conservator of the person, of the estate, or of
16 the person and the estate may be appointed for any
17 person who is gravely disabled as a result of mental
18 disorder or impairment by chronic alcoholism.

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

23 (a) A conservator may be appointed for a gravely
24 disabled minor.

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

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

38 (c) No conservatorship of the estate pursuant to this
39 chapter shall be established if a conservatorship or
40 guardianship of the estate exists under the Probate Code.



1 When a gravely disabled person already has a guardian or
2 conservator of the person appointed under the Probate
3 Code, the proceedings under this chapter shall not
4 terminate the prior proceedings but shall be concurrent
5 with and superior thereto. The superior court may
6 appoint the existing guardian or conservator of the
7 person or another person as conservator of the person
8 under this chapter.

9 (d) The person for whom conservatorship is sought
10 shall have the right to demand a court or jury trial on the
11 issue whether he or she is gravely disabled. *The issue shall*
12 *be proved beyond a reasonable doubt.* Demand for court
13 or jury trial shall be made within five days following the
14 hearing on the conservatorship petition. If the proposed
15 conservatee demands a court or jury trial before the date
16 of the hearing as provided for in Section 5365, the demand
17 shall constitute a waiver of the hearing.

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

22 This right shall also apply in subsequent proceedings to
23 reestablish conservatorship.

24 (e) (1) Notwithstanding subparagraph (A) of
25 paragraph (1) of subdivision (h) of Section 5008, a person
26 is not “gravely disabled” if that person can survive safely
27 without involuntary detention with the help of
28 responsible family, friends, or others who are both willing
29 and able to help provide for the person’s basic personal
30 needs for food, clothing, or shelter and who are willing
31 and able to assist the person in meeting his or her other
32 medical and psychiatric needs.

33 (2) However, unless they specifically indicate in
34 writing their willingness and ability to help, family,
35 friends, or others shall not be considered willing or able
36 to provide this help.

37 (3) The purpose of this subdivision is to avoid the
38 necessity for, and the harmful effects of, requiring family,
39 friends, and others to publicly state, and requiring the
40 court to publicly find, that no one is willing or able to assist



1 the mentally disordered person in providing for the
2 person’s basic needs for food, clothing, or shelter.

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

6 (f) Conservatorship investigation shall be conducted
7 pursuant to this part and shall not be subject to Section
8 1826 or Chapter 2 (commencing with Section 1850) of
9 Part 3 of Division 4 of the Probate Code.

10 (g) Notice of proceedings under this chapter shall be
11 given to a guardian or conservator of the person or estate
12 of the proposed conservatee appointed under the
13 Probate Code.

14 (h) As otherwise provided in this chapter.

15 ~~SEC. 19.—~~

16 *SEC. 15.* (a) The State Department of Mental Health
17 shall require counties to submit data and progress reports
18 to the department, including, but not limited to, the
19 numbers of persons being assigned to involuntary
20 inpatient and outpatient treatment, the length of time for
21 which persons are detained and treated involuntarily for
22 inpatient and outpatient treatment, changes in mental
23 health treatment utilization patterns, and the
24 effectiveness of community assisted outpatient treatment
25 programs.

26 (b) On or before April 1, 2002, the department shall
27 report to the Legislature, based on the information it
28 collects from counties, on the effectiveness of this act.

29 (c) This report shall include recommendations to the
30 Legislature relative to how the involuntary treatment is
31 being implemented, whether further involuntary
32 treatment policy changes are recommended, and
33 whether inpatient and community-assisted outpatient
34 mental health services are effective and warrant
35 additional funding.

36 ~~SEC. 20.—~~

37 *SEC. 16.* The sum of three hundred fifty million
38 dollars (\$350,000,000) is hereby appropriated from the
39 General Fund to the State Department of Mental Health,
40 in augmentation of Item 4440-101-0001 of the Budget Act



1 of 2000, for allocation to those counties that implement a
2 community assisted outpatient program pursuant to this
3 act. Up to 25 percent of each qualifying county's share
4 may be used for short-term inpatient services if it is
5 deemed appropriate by the county department of mental
6 health to ensure the availability of the appropriate level
7 of mental health treatment services.

8 ~~SEC. 21.—~~

9 *SEC. 17.* Notwithstanding Section 17610 of the
10 Government Code, if the Commission on State Mandates
11 determines that this act contains costs mandated by the
12 state, reimbursement to local agencies and school
13 districts for those costs shall be made pursuant to Part 7
14 (commencing with Section 17500) of Division 4 of Title
15 2 of the Government Code. If the statewide cost of the
16 claim for reimbursement does not exceed one million
17 dollars (\$1,000,000), reimbursement shall be made from
18 the State Mandates Claims Fund.

