

AMENDED IN ASSEMBLY APRIL 11, 2000  
AMENDED IN ASSEMBLY MARCH 23, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1800**

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**Introduced by Assembly Member Thomson and Senator  
Perata  
(Coauthors: Assembly Members Alquist, Dutra, Jackson,  
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, 5332, 5334, 5336, and 5350 of, *to add Section 4013 to*, and to repeal and add Article 4.5 (commencing with Section 5260) of 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: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~no~~ 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
- 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



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

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

16 *SEC. 1.5. Section 4013 is added to the Welfare and*  
17 *Institutions Code, to read:*

18 *4013. (a) The department shall provide training and*  
19 *technical assistance to counties, mental health providers*  
20 *contracting with the counties, and other individuals,*  
21 *including, but not limited to, mental health professionals,*  
22 *law enforcement officials, and certification hearing*  
23 *officers involved in making treatment and involuntary*  
24 *commitment decisions.*

25 *(b) The training required by subdivision (a) shall*  
26 *include all of the following:*

27 *(1) Information relative to legal requirements for*  
28 *detaining a person for involuntary inpatient treatment or*  
29 *community-assisted outpatient care, including criteria to*  
30 *be considered with respect to determining if a person is*  
31 *considered to be gravely disabled.*

32 *(2) Methods for ensuring that decisions made*  
33 *regarding involuntary treatment as provided for in*  
34 *Sections 5150 and 5250 direct patients toward the most*  
35 *effective treatment.*

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

38 *5008. Unless the context otherwise requires, the*  
39 *following definitions shall govern the construction of this*  
40 *part:*



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

9 (b) "Court-ordered evaluation" means an evaluation  
10 ordered by a superior court pursuant to Article 2  
11 (commencing with Section 5200) or by a court pursuant  
12 to Article 3 (commencing with Section 5225) of Chapter  
13 2.

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

27 (d) "Referral" is referral of persons by each agency or  
28 facility providing intensive treatment or evaluation  
29 services to other agencies or individuals. The purpose of  
30 referral shall be to provide for continuity of care, and may  
31 include, but need not be limited to, informing the person  
32 of available services, making appointments on the  
33 person's behalf, discussing the person's problem with the  
34 agency or individual to which the person has been  
35 referred, appraising the outcome of referrals, and  
36 arranging for personal escort and transportation when  
37 necessary. Referral shall be considered complete when  
38 the agency or individual to whom the person has been  
39 referred accepts responsibility for providing the  
40 necessary services. All persons shall be advised of



1 available precare services which prevent initial recourse  
2 to hospital treatment or aftercare services which support  
3 adjustment to community living following hospital  
4 treatment. These services may be provided through  
5 county welfare departments, State Department of  
6 Mental Health, Short-Doyle programs or other local  
7 agencies.

8 Each agency or facility providing evaluation services  
9 shall maintain a current and comprehensive file of all  
10 community services, both public and private. These files  
11 shall contain current agreements with agencies or  
12 individuals accepting referrals, as well as appraisals of the  
13 results of past referrals.

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

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

38 (g) "Conservatorship investigation" means  
39 investigation by an agency appointed or designated by  
40 the governing body of cases in which conservatorship is



1 recommended pursuant to Chapter 3 (commencing with  
2 Section 5350).

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

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

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

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

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

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

28 (2) For purposes of Article 3 (commencing with  
29 Section 5225) and Article 4 (commencing with Section  
30 5250), of Chapter 2, and for the purposes of Chapter 3  
31 (commencing with Section 5350), “gravely disabled”  
32 means a condition in which a person, as a result of  
33 impairment by chronic alcoholism, is unable to provide  
34 for his or her basic personal needs for food, clothing, or  
35 shelter.

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

39 (i) “Peace officer” means a duly sworn peace officer  
40 as that term is defined in Chapter 4.5 (commencing with



1 Section 830) of Title 3 of Part 2 of the Penal Code who has  
2 completed the basic training course established by the  
3 Commission on Peace Officer Standards and Training, or  
4 any parole officer or probation officer specified in Section  
5 830.5 of the Penal Code when acting in relation to cases  
6 for which he or she has a legally mandated responsibility.

7 (j) "Postcertification treatment" means an additional  
8 period of treatment pursuant to Article 6 (commencing  
9 with Section 5300) of Chapter 2.

10 (k) "Court," unless otherwise specified, means a court  
11 of record.

12 (l) "Antipsychotic medication" means any medication  
13 customarily prescribed for the treatment of symptoms of  
14 psychoses and other severe mental and emotional  
15 disorders.

16 (m) "Emergency" means a situation in which action to  
17 impose treatment over the person's objection is  
18 immediately necessary for the preservation of life or the  
19 prevention of serious bodily harm to the patient or others,  
20 and it is impracticable to first gain consent. It is not  
21 necessary for harm to take place or become unavoidable  
22 prior to treatment.

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

25 5250. If a person is detained for 72 hours under the  
26 provisions of Article 1 (commencing with Section 5150),  
27 or under court order for evaluation pursuant to Article 2  
28 (commencing with Section 5200) or Article 3  
29 (commencing with Section 5225) and has received an  
30 evaluation, he or she may be certified for not more than  
31 28 days of intensive treatment related to the mental  
32 disorder or impairment by chronic alcoholism, under the  
33 following conditions:

34 (a) The professional staff of the agency or facility  
35 providing evaluation services has analyzed the person's  
36 condition and has found the person is, as a result of mental  
37 disorder or impairment by chronic alcoholism, a danger  
38 to others, or to himself or herself, or gravely disabled.

39 (b) The facility providing intensive treatment is  
40 designated by the county to provide intensive treatment,



1 and agrees to admit the person. No facility shall be  
2 designated to provide intensive treatment unless it  
3 complies with the certification review hearing required  
4 by this article. The procedures shall be described in the  
5 county Short-Doyle plan.

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

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

17 (2) However, unless they specifically indicate in  
18 writing their willingness and ability to help, family,  
19 friends, or others shall not be considered willing or able  
20 to provide this help.

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

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

30 5256.5. If at the conclusion of the certification review  
31 hearing the person conducting the hearing finds that  
32 there is not probable cause to believe that the person  
33 certified should be involuntarily detained, then the  
34 person certified may no longer be involuntarily detained.  
35 Nothing in this section shall prohibit the person from  
36 remaining at the facility on a voluntary basis or the facility  
37 from providing the person with appropriate referral  
38 information concerning mental health services.

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



1 5256.6. (a) If at the conclusion of the certification  
2 review hearing the person conducting the hearing  
3 determines that there is probable cause to believe that  
4 the person certified should be involuntarily detained,  
5 that person may be detained for involuntary care,  
6 protection, and treatment related to the mental disorder  
7 or impairment by chronic alcoholism for which he or she  
8 is involuntarily detained.

9 (b) If the person certified refuses treatment with  
10 psychotropic medication within the meaning of Section  
11 5332, the person conducting the hearing shall also  
12 determine whether the person certified lacks capacity to  
13 make an informed refusal of the treatment. If the hearing  
14 officer determines that the person certified lacks capacity  
15 to refuse the treatment, the person certified may be  
16 treated with psychotropic medications without consent  
17 during the period of certification.

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

28 (d) If the person conducting the certification hearing  
29 determines that the patient does not lack capacity to  
30 refuse treatment by psychotropic medications, judicial  
31 review of the decision may be initiated by the director or  
32 the director's designee pursuant to subdivision (b) of  
33 Section 5333 and paragraph (2) of subdivision (e) of  
34 Section 5334. The superior court shall conduct the  
35 hearing *de novo*, as provided in subdivision (f) of Section  
36 5334.

37 (e) If any person is certified for intensive medical  
38 treatment pursuant to this section, the agency or facility  
39 providing the treatment shall acquire his or her  
40 medication history.



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

3 5257. During the period of intensive treatment  
4 pursuant to Section 5250 or 5270.15, only if the psychiatrist  
5 directly responsible for the person's treatment believes,  
6 as a result of his or her personal observations, that the  
7 person certified no longer is, as a result of mental disorder  
8 or impairment by chronic alcoholism, a danger to others,  
9 or to himself or herself, or gravely disabled, then the  
10 person's involuntary detention shall end and the person  
11 shall be released. If any other professional person who is  
12 authorized to release the person believes the person  
13 should be released during the designated period of  
14 intensive treatment, and the psychiatrist directly  
15 responsible for the person's treatment objects, the matter  
16 shall be referred to the medical director of the facility for  
17 the final decision. However, if the medical director is not  
18 a psychiatrist, he or she shall appoint a designee who is a  
19 psychiatrist. If the matter is referred, the person shall be  
20 released during the period of intensive treatment only if  
21 the psychiatrist making the final decision believes, as a  
22 result of his or her personal observations, that the person  
23 certified no longer is, as a result of mental disorder or  
24 impairment by chronic alcoholism, a danger to others, or  
25 to himself or herself, or gravely disabled. Nothing in this  
26 section shall prohibit either the person remaining at the  
27 facility on a voluntary basis or the facility from providing  
28 the person with appropriate referral information  
29 concerning mental health services.

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

33 (a) Agrees to receive further treatment on a voluntary  
34 basis.

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

38 (c) Is certified for an additional 30 days of intensive  
39 treatment pursuant to Article 4.7 (commencing with  
40 Section 5270.10).



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

3 (e) Is the subject of a Petition for Postcertification of  
4 a Dangerous Person filed pursuant to Article 6  
5 (commencing with Section 5300).

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

8 5259.3. (a) Notwithstanding Section 5113, if the  
9 provisions of Section 5257 have been met, the professional  
10 person in charge of the facility providing intensive  
11 treatment, his or her designee, the medical director of the  
12 facility or his or her designee described in Section 5257,  
13 and the psychiatrist directly responsible for the person's  
14 treatment shall not be held civilly or criminally liable for  
15 any action by a person released before the end of 28 days  
16 pursuant to this article.

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

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

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

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

38



1 Article 4.5. Community Assisted Outpatient  
2 Treatment Programs  
3

4 5260. Persons committed pursuant to Sections 5150  
5 and 5250 shall be placed in community assisted outpatient  
6 treatment programs for 180 days if all of the following  
7 conditions exist:

8 (a) A hearing officer finds that he or she requires  
9 continuing treatment and care under supervised  
10 conditions to maintain and improve recovery and the  
11 person is sufficiently stable to benefit from community  
12 treatment in an appropriate unlocked setting.

13 (b) The person agrees to community assisted  
14 outpatient treatment.

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

17 (d) A community treatment plan is prepared by the  
18 multidisciplinary outpatient treatment team ~~and is~~  
19 ~~agreed to by all parties.~~

20 5260.1. A community assisted outpatient treatment  
21 program shall include all of the following:

22 (a) (1) A multidisciplinary team of providers  
23 consisting of a combination of physicians, psychologists,  
24 and other licensed mental health providers, nurses, social  
25 workers, substance abuse specialists, vocational  
26 rehabilitation counselors, peer counselors, and an assisted  
27 outpatient care ~~expediter~~ *expediter*. This team shall, in  
28 consultation with the client and any family members  
29 involved in the client's day-to-day care, develop and  
30 implement an individualized community assisted  
31 outpatient treatment program to ensure the client  
32 receives all necessary support and care to maximize the  
33 effectiveness of treatment and reduce the risk of  
34 noncompliance and subsequent custodial retention  
35 pursuant to Section 5150.

36 (2) For purposes of this article, "assisted outpatient  
37 care ~~expediter~~ *expediter*" means a current or former  
38 mental health client who will coordinate all services  
39 provided to the client pursuant to this section.



- 1 (b) The treatment plan shall include all of the  
2 following:
- 3 (1) Immediate crisis response 24 hours a day, seven  
4 days a week.
- 5 (2) Direct coordination of all medical, psychiatric, and  
6 general health care.
- 7 (3) Help in managing symptoms of mental illness.
- 8 (4) Provision and supervision of prescribed  
9 medication.
- 10 (5) Supportive therapy including dual diagnosis.
- 11 (6) Periodic blood or urine testing to verify  
12 compliance, *if the treatment team has reason to believe*  
13 *that the patient is not complying with the treatment plan,*  
14 *and the tests are mandated by court order.*
- 15 (7) Individual or group therapy, or both.
- 16 (8) Day or partial day programs.
- 17 (9) Family support and outreach.
- 18 (10) Client-site requested support in coping with life's  
19 daily demands including assistance with any or all of the  
20 following:
- 21 (A) Obtaining financial entitlements through the  
22 federal Supplemental Security Income (SSI) program,  
23 the federal Social Security Disability Insurance (SSDI)  
24 program, and the Medi-Cal program.
- 25 (B) Obtaining available insurance coverage.
- 26 (C) Accessing housing and residential vouchers.
- 27 (D) Learning how to live independently or with a  
28 roommate.
- 29 (E) Accessing treatment for coexisting substance  
30 abuse.
- 31 (F) Accessing vocational service and helping to find  
32 employment.
- 33 (G) Dealing with legal issues.
- 34 5261. In the event the patient does not or cannot  
35 abide by the terms of the agreed upon community  
36 treatment plan, including medication compliance, and  
37 the person poses an acute risk of physical or psychiatric  
38 deterioration, the person may, by court order, be  
39 returned to inpatient treatment for the remaining days  
40 of the underlying involuntary treatment certification.



1 5262. Persons diagnosed with severe and persistent  
2 mental illness may receive treatment in community  
3 assisted outpatient treatment programs for 180 days if all  
4 of the following requirements are met:

5 (a) The person agrees to community assisted  
6 outpatient treatment.

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

9 (c) A community treatment plan is prepared by the  
10 multidisciplinary outpatient treatment team and is  
11 agreed to by all parties.

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

14 5270.15. Upon the completion of a 28-day period of  
15 intensive treatment pursuant to Section 5250, the person  
16 may be certified for an additional period of not more than  
17 30 days of intensive treatment under both of the following  
18 conditions:

19 (a) The professional staff of the agency or facility  
20 treating the person has found that the person remains  
21 gravely disabled as a result of a mental disorder or  
22 impairment by chronic alcoholism.

23 (b) The person remains unwilling or unable to accept  
24 treatment voluntarily.

25 Any person certified for an additional 30 days pursuant  
26 to this article shall be provided a certification review  
27 hearing in accordance with Section 5256 unless a judicial  
28 review is requested pursuant to Article 5 (commencing  
29 with Section 5275).

30 The professional staff of the agency or facility providing  
31 intensive treatment shall analyze the person's condition  
32 at intervals of not to exceed 10 days, to determine  
33 whether the person continues to meet the criteria  
34 established for certification under this section, and shall  
35 daily monitor the person's treatment plan and progress.  
36 Termination of this certification prior to the 30th day shall  
37 be made pursuant to Section 5270.35.

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



1 5270.55. (a) Whenever it is contemplated that a  
2 gravely disabled person may need to be detained beyond  
3 the end of the 28-day period of intensive treatment and  
4 prior to proceeding with an additional 30-day  
5 certification, the professional person in charge of the  
6 facility shall cause an evaluation to be made, based on the  
7 patient's current condition and past history, as to whether  
8 it appears that the person, even after up to 30 days of  
9 additional treatment, is likely to qualify for appointment  
10 of a conservator. If the appointment of a conservator  
11 appears likely, the conservatorship referral shall be made  
12 during the 28-day period of intensive treatment.

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

17 (c) Where no conservatorship referral has been made  
18 during the 28-day period and where during the 30-day  
19 certification it appears that the person is likely to require  
20 the appointment of a conservator, then the  
21 conservatorship referral shall be made to allow sufficient  
22 time for conservatorship investigation and other related  
23 procedures. If a temporary conservatorship is obtained,  
24 it shall run concurrently with and not consecutively to the  
25 30-day certification period. The conservatorship hearing  
26 shall be held by the 30th day of the certification period.  
27 The maximum involuntary detention period for gravely  
28 disabled persons pursuant to Sections 5150, 5250 and  
29 5270.15 shall be limited to 61 days. Nothing in this section  
30 shall prevent a person from exercising his or her right to  
31 a hearing as stated in Sections 5275 and 5353.

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

34 5300. (a) At the expiration of the 28-day period of  
35 intensive treatment, a person may be confined for further  
36 treatment pursuant to the provisions of this article for an  
37 additional period, not to exceed one year if it is proved by  
38 clear and convincing evidence that one of the following  
39 exists:



1 (1) The person has attempted, inflicted, or made a  
2 serious threat of substantial physical harm upon the  
3 person of another after having been taken into custody,  
4 and while in custody, for evaluation and treatment, and  
5 who, as a result of mental disorder or mental defect,  
6 presents a demonstrated danger of inflicting substantial  
7 physical harm upon others.

8 (2) The person had attempted, or inflicted physical  
9 harm upon the person of another, that act having resulted  
10 in his or her being taken into custody and who presents,  
11 as a result of mental disorder or mental defect, a  
12 demonstrated danger of inflicting substantial physical  
13 harm upon others.

14 (3) The person had made a serious threat of substantial  
15 physical harm upon the person of another within seven  
16 days of being taken into custody, that threat having at  
17 least in part resulted in his or her being taken into  
18 custody, and the person presents, as a result of mental  
19 disorder or mental defect, a demonstrated danger of  
20 inflicting substantial physical harm upon others.

21 (b) Any commitment to a licensed health facility  
22 under this article places an affirmative obligation on the  
23 facility to provide treatment for the underlying causes of  
24 the person's mental disorder.

25 (c) Amenability to treatment is not required for a  
26 finding that any person is a person as described in  
27 paragraph (1), (2), or (3) of subdivision (a). Treatment  
28 programs need only be made available to these persons.  
29 Treatment does not mean that the treatment be  
30 successful or potentially successful, and it does not mean  
31 that the person must recognize his or her problem and  
32 willingly participate in the treatment program.

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

35 5301. At any time during the 28-day intensive  
36 treatment period the professional person in charge of the  
37 licensed health facility, or his or her designee, may ask the  
38 public officer required by Section 5114 to present  
39 evidence at proceedings under this article to petition the  
40 superior court in the county in which the licensed health



1 facility providing treatment is located for an order  
 2 requiring the person to undergo an additional period of  
 3 treatment on the grounds set forth in Section 5300. The  
 4 petition shall summarize the facts that support the  
 5 contention that the person falls within the standard set  
 6 forth in Section 5300. The petition shall be supported by  
 7 affidavits describing in detail the behavior that indicates  
 8 that the person falls within the standard set forth in  
 9 Section 5300.

10 Copies of the petition for postcertification treatment  
 11 and the affidavits in support thereof shall be served upon  
 12 the person named in the petition on the same day as they  
 13 are filed with the clerk of the superior court.

14 The petition shall be in the following form:

15

16 Petition for Postcertification Treatment of a  
 17 Dangerous Person  
 18

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



1 substantial physical harm upon others, or that (c)  
 2 \_\_\_\_\_ had made a serious threat of substantial physical  
 3 harm upon the person of another within seven days of  
 4 being taken into custody, that threat having at least in  
 5 part resulted in his or her being taken into custody, and  
 6 that he or she presents, as a result of mental disorder or  
 7 mental defect, a demonstrated danger of inflicting  
 8 substantial physical harm upon others.

9 My allegation is based upon the following facts:

10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_

17 This allegation is supported by the accompanying  
 18 affidavits signed by \_\_\_\_\_.

19  
 20 Signed \_\_\_\_\_

21  
 22 The courts may receive the affidavits in evidence and  
 23 may allow the affidavits to be read to the jury and the  
 24 contents thereof considered in rendering a verdict, unless  
 25 counsel for the person named in the petition subpoenas  
 26 the treating professional person. If the treating  
 27 professional person is subpoenaed to testify, the public  
 28 officer, pursuant to Section 5114, shall be entitled to a  
 29 continuance of the hearing or trial.

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

32 5304. (a) The court shall remand a person named in  
 33 the petition for postcertification treatment to the custody  
 34 of the State Department of Mental Health or to a licensed  
 35 health facility designated by the county of residence of  
 36 that person for a further period of intensive treatment not  
 37 to exceed one year from the date of court judgment, if the  
 38 court or jury finds, based on clear and convincing  
 39 evidence, that the person named in the petition for  
 40 postcertification treatment has done any of the following:



1 (1) Attempted, inflicted, or made a serious threat of  
2 substantial physical harm upon the person of another  
3 after having been taken into custody, and while in  
4 custody, for evaluation and treatment, and who, as a  
5 result of mental disorder or mental defect, presents a  
6 demonstrated danger of inflicting substantial physical  
7 harm upon others.

8 (2) Attempted or inflicted physical harm upon the  
9 person of another, that act having resulted in his or her  
10 being taken into custody, and who, as a result of mental  
11 disorder or mental defect, presents a demonstrated  
12 danger of inflicting substantial physical harm upon  
13 others.

14 (3) Expressed 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 who presents, as a result of mental disorder or mental  
19 defect, a demonstrated danger of inflicting substantial  
20 physical harm upon others.

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

34 (c) The county from which the person was remanded  
35 shall bear any transportation costs incurred pursuant to  
36 this section.

37 ~~SEC. 15. Section 5332 of the Welfare and Institutions~~  
38 ~~Code is amended to read:~~

39 ~~5332. (a) Antipsychotic medication, as defined in~~  
40 ~~subdivision (l) of Section 5008, may be administered to~~



1 any person subject to detention pursuant to Section 5150,  
2 5250, or 5270.15, if that person does not refuse that  
3 medication following disclosure of the right to refuse  
4 medication as well as information required to be given to  
5 persons pursuant to subdivision (c) of Section 5152 and  
6 subdivision (b) of Section 5213.

7 (b) If any person subject to detention pursuant to  
8 Section 5150, 5250, or 5270.15, and for whom antipsychotic  
9 medication has been prescribed, orally refuses or gives  
10 other indication of refusal of treatment with that  
11 medication, the medication shall only be administered  
12 when treatment staff have considered and determined  
13 that treatment alternatives to involuntary medication are  
14 unlikely to meet the needs of the patient, and upon a  
15 determination of that person's incapacity to refuse the  
16 treatment, in a hearing held for that purpose.

17 (c) For those patients who have not already been  
18 determined to lack the capacity to refuse treatment with  
19 psychotropic medications pursuant to Section 5256.6,  
20 each hospital in conjunction with the hospital medical  
21 staff or any other treatment facility in conjunction with  
22 its clinical staff shall develop internal procedures for  
23 facilitating the filing of petitions for capacity hearings and  
24 other activities required pursuant to this chapter.

25 (d) In the case of an emergency, as defined in  
26 subdivision (m) of Section 5008, a person detained  
27 pursuant to Section 5150, 5250, or 5270.15 may be treated  
28 with antipsychotic medication over his or her objection  
29 prior to a capacity hearing, but only with antipsychotic  
30 medication that is required to treat the emergency  
31 condition, which shall be provided in the manner least  
32 restrictive to the personal liberty of the patient. It is not  
33 necessary for harm to take place or become unavoidable  
34 prior to intervention.

35 (e) If any person is certified for intensive medical  
36 treatment pursuant to this section, the agency or facility  
37 providing the treatment shall acquire his or her  
38 medication history.

39 *SEC. 15. Section 5332 of the Welfare and Institutions*  
40 *Code is amended to read:*



1 5332. (a) Antipsychotic medication, as defined in  
2 subdivision (l) of Section 5008, may be administered to  
3 any person subject to detention pursuant to Section 5150,  
4 5250, ~~5260~~, or 5270.15, if that person does not refuse that  
5 medication following disclosure of the right to refuse  
6 medication as well as information required to be given to  
7 persons pursuant to subdivision (c) of Section 5152 and  
8 subdivision (b) of Section 5213.

9 (b) If any person subject to detention pursuant to  
10 Section 5150, 5250, ~~5260~~, or 5270.15, and for whom  
11 antipsychotic medication has been prescribed, orally  
12 refuses or gives other indication of refusal of treatment  
13 with that medication, the medication shall only be  
14 administered when treatment staff have considered and  
15 determined that treatment alternatives to involuntary  
16 medication are unlikely to meet the needs of the patient,  
17 and upon a determination of that person's incapacity to  
18 refuse the treatment, in a hearing held for that purpose.

19 (c) ~~Each~~—*For those patients who have not already*  
20 *been determined to lack the capacity to refuse treatment*  
21 *with psychotropic medications pursuant to Section*  
22 *5256.6, each hospital in conjunction with the hospital*  
23 *medical staff or any other treatment facility in*  
24 *conjunction with its clinical staff shall develop internal*  
25 *procedures for facilitating the filing of petitions for*  
26 *capacity hearings and other activities required pursuant*  
27 *to this chapter.*

28 (d) In the case of an emergency, as defined in  
29 subdivision (m) of Section 5008, a person detained  
30 pursuant to Section 5150, 5250, ~~5260~~, or 5270.15 may be  
31 treated with antipsychotic medication over his or her  
32 objection prior to a capacity hearing, but only with  
33 antipsychotic medication that is required to treat the  
34 emergency condition, which shall be provided in the  
35 manner least restrictive to the personal liberty of the  
36 patient. It is not necessary for harm to take place or  
37 become unavoidable prior to intervention.

38 (e) *If any person is certified for intensive medical*  
39 *treatment pursuant to this section, the agency or facility*



1 *providing the treatment shall acquire his or her*  
2 *medication history.*

3 SEC. 16. Section 5334 of the Welfare and Institutions  
4 Code is amended to read:

5 5334. (a) Capacity hearings required by Section 5332  
6 shall be heard within 24 hours of the filing of the petition  
7 whenever possible. However, if any party needs  
8 additional time to prepare for the hearing, the hearing  
9 shall be postponed for 24 hours. In case of hardship,  
10 hearings may also be postponed for an additional 24 hours,  
11 pursuant to local policy developed by the county mental  
12 health director and the presiding judge of the superior  
13 court regarding the scheduling of hearings. The policy  
14 developed pursuant to this subdivision shall specify  
15 procedures for the prompt filing and processing of  
16 petitions to ensure that the deadlines set forth in this  
17 section are met, and shall take into consideration the  
18 availability of advocates and the treatment needs of the  
19 patient. In no event shall hearings be held beyond 72  
20 hours of the filing of the petition. The person who is the  
21 subject of the petition and his or her advocate or counsel  
22 shall receive a copy of the petition at the time it is filed.

23 (b) Capacity hearings shall be held in an appropriate  
24 location at the facility where the person is receiving  
25 treatment, and shall be held in a manner compatible with,  
26 and the least disruptive of, the treatment being provided  
27 to the person.

28 (c) Capacity hearings shall be conducted by those  
29 individuals authorized to conduct certification review  
30 hearings pursuant to Section 5256.1. All hearing officers  
31 shall receive training in the issues specific to capacity  
32 hearings.

33 (d) The person who is the subject of the capacity  
34 hearing shall be given oral notification of the  
35 determination at the conclusion of the capacity hearing.  
36 As soon thereafter as is practicable, the person, his or her  
37 counsel or advocate, and the director of the facility where  
38 the person is receiving treatment shall be provided with  
39 written notification of the capacity determination, which  
40 shall include a statement of the evidence relied upon and

1 the reasons for the determination. A copy of the  
2 determination shall be submitted to the superior court.

3 (e) (1) The person who is the subject of the capacity  
4 hearing may appeal the determination to the superior  
5 court or the court of appeal.

6 (2) The person who has filed the original petition for  
7 a capacity hearing may request the district attorney or  
8 county counsel in the county in which the person is  
9 receiving treatment to appeal the determination to the  
10 superior court or the court of appeal, on behalf of the  
11 state.

12 (3) Nothing shall prohibit treatment from being  
13 initiated pending appeal of a determination of incapacity  
14 pursuant to this section.

15 (4) Nothing in this section shall be construed to  
16 preclude the right of a person to bring a writ of habeas  
17 corpus pursuant to Section 5275, subject to the provisions  
18 of this chapter.

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

21 SEC. 17. Section 5336 of the Welfare and Institutions  
22 Code is amended to read:

23 5336. Any determination of a person's incapacity to  
24 refuse treatment with antipsychotic medication made  
25 pursuant to Section 5256.6 or 5334 shall remain in effect  
26 only for the duration of the detention period described in  
27 Section 5150 or 5250, or both, or until capacity has been  
28 restored according to standards developed pursuant to  
29 subdivision (c) of Section 5332, or by court  
30 determination, whichever is sooner.

31 SEC. 18. Section 5350 of the Welfare and Institutions  
32 Code is amended to read:

33 5350. A conservator of the person, of the estate, or of  
34 the person and the estate may be appointed for any  
35 person who is gravely disabled as a result of mental  
36 disorder or impairment by chronic alcoholism.

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



1 (a) A conservator may be appointed for a gravely  
2 disabled minor.

3 (b) (1) Appointment of a conservator under this part,  
4 including the appointment of a conservator for a person  
5 who is gravely disabled, as defined in subparagraph (A)  
6 of paragraph (1) of subdivision (h) of Section 5008, shall  
7 be subject to the list of priorities in Section 1812 of the  
8 Probate Code unless the officer providing  
9 conservatorship investigation recommends otherwise to  
10 the superior court.

11 (2) In appointing a conservator, as defined in  
12 subparagraph (B) of paragraph (1) of subdivision (h) of  
13 Section 5008, the court shall consider the purposes of  
14 protection of the public and the treatment of the  
15 conservatee.

16 (c) No conservatorship of the estate pursuant to this  
17 chapter shall be established if a conservatorship or  
18 guardianship of the estate exists under the Probate Code.  
19 When a gravely disabled person already has a guardian or  
20 conservator of the person appointed under the Probate  
21 Code, the proceedings under this chapter shall not  
22 terminate the prior proceedings but shall be concurrent  
23 with and superior thereto. The superior court may  
24 appoint the existing guardian or conservator of the  
25 person or another person as conservator of the person  
26 under this chapter.

27 (d) The person for whom conservatorship is sought  
28 shall have the right to demand a court or jury trial on the  
29 issue whether he or she is gravely disabled. The issue shall  
30 be proved by clear and convincing evidence. Demand for  
31 court or jury trial shall be made within five days following  
32 the hearing on the conservatorship petition. If the  
33 proposed conservatee demands a court or jury trial  
34 before the date of the hearing as provided for in Section  
35 5365, the demand shall constitute a waiver of the hearing.

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



1 This right shall also apply in subsequent proceedings to  
 2 reestablish conservatorship.

3 (e) (1) Notwithstanding subparagraph (A) of  
 4 paragraph (1) of subdivision (h) of Section 5008, a person  
 5 is not “gravely disabled” if that person can survive safely  
 6 without involuntary detention with the help of  
 7 responsible family, friends, or others who are both willing  
 8 and able to help provide for the person’s basic personal  
 9 needs for food, clothing, or shelter and who are willing  
 10 and able to assist the person in meeting his or her other  
 11 medical and psychiatric needs.

12 (2) However, unless they specifically indicate in  
 13 writing their willingness and ability to help, family,  
 14 friends, or others shall not be considered willing or able  
 15 to provide this help.

16 (3) The purpose of this subdivision is to avoid the  
 17 necessity for, and the harmful effects of, requiring family,  
 18 friends, and others to publicly state, and requiring the  
 19 court to publicly find, that no one is willing or able to assist  
 20 the mentally disordered person in providing for the  
 21 person’s basic needs for food, clothing, or shelter.

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

25 (f) Conservatorship investigation shall be conducted  
 26 pursuant to this part and shall not be subject to Section  
 27 1826 or Chapter 2 (commencing with Section 1850) of  
 28 Part 3 of Division 4 of the Probate Code.

29 (g) Notice of proceedings under this chapter shall be  
 30 given to a guardian or conservator of the person or estate  
 31 of the proposed conservatee appointed under the  
 32 Probate Code.

33 (h) As otherwise provided in this chapter.

34 SEC. 19. (a) *The State Department of Mental Health*  
 35 *shall require counties to submit data and progress reports*  
 36 *to the department, including, but not limited to, the*  
 37 *numbers of persons being assigned to involuntary*  
 38 *inpatient and outpatient treatment, the length of time for*  
 39 *which persons are detained and treated involuntarily for*  
 40 *inpatient and outpatient treatment, changes in mental*



1 health treatment utilization patterns, and the  
2 effectiveness of community assisted outpatient treatment  
3 programs.

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

7 (c) This report shall include recommendations to the  
8 Legislature relative to how the involuntary treatment is  
9 being implemented, whether further involuntary  
10 treatment policy changes are recommended, and  
11 whether inpatient and community-assisted outpatient  
12 mental health services are effective and warrant  
13 additional funding.

14 SEC. 20. The sum of three hundred fifty million  
15 dollars (\$350,000,000) is hereby appropriated from the  
16 General Fund to the State Department of Mental Health,  
17 in augmentation of Item 4440-101-0001 of the Budget Act  
18 of 2000, for allocation to those counties that implement a  
19 community assisted outpatient program pursuant to this  
20 act. Up to 25 percent of each qualifying county's share  
21 may be used for short-term ~~outpatient~~ inpatient services  
22 if it is deemed appropriate by the county department of  
23 mental health to ensure the availability of the appropriate  
24 level of mental health treatment services.

25 SEC. 21. Notwithstanding Section 17610 of the  
26 Government Code, if the Commission on State Mandates  
27 determines that this act contains costs mandated by the  
28 state, reimbursement to local agencies and school  
29 districts for those costs shall be made pursuant to Part 7  
30 (commencing with Section 17500) of Division 4 of Title  
31 2 of the Government Code. If the statewide cost of the  
32 claim for reimbursement does not exceed one million  
33 dollars (\$1,000,000), reimbursement shall be made from  
34 the State Mandates Claims Fund.

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