

AMENDED IN ASSEMBLY APRIL 24, 2000  
AMENDED IN ASSEMBLY APRIL 11, 2000  
AMENDED IN ASSEMBLY MARCH 23, 2000

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 (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: 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.



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

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

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

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

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

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

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

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



1 5008. Unless the context otherwise requires, the  
2 following definitions shall govern the construction of this  
3 part:

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

31 (2) For purposes of Article 3 (commencing with  
32 Section 5225) and Article 4 (commencing with Section  
33 5250), of Chapter 2, and for the purposes of Chapter 3  
34 (commencing with Section 5350), “gravely disabled”  
35 means a condition in which a person, as a result of  
36 impairment by chronic alcoholism, is unable to provide  
37 for his or her basic personal needs for food, clothing, or  
38 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 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 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 30 days of intensive  
5 treatment pursuant to Article 4.7 (commencing with  
6 Section 5270.10).

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

9 (e) Is the subject of a Petition for Postcertification of  
10 a Dangerous Person filed pursuant to Article 6  
11 (commencing with Section 5300).

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

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

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

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

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



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

4  
5  
6  
7

Article 4.5. Community Assisted Outpatient  
Treatment Programs

8 5260. Persons committed pursuant to Sections 5150  
9 ~~and 5250~~, 5250, and 5270.15 shall be placed in community  
10 assisted outpatient treatment programs for 180 days if all  
11 of the following conditions exist:

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

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

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

21 (d) A community treatment plan is prepared by the  
22 multidisciplinary outpatient treatment team.

23 5260.1. A community assisted outpatient treatment  
24 program shall include all of the following:

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

38 (2) For purposes of this article, "assisted outpatient  
39 care expediter" means ~~a current or former mental health~~



1 ~~client~~ *one* who will coordinate all services provided to the  
2 client pursuant to this section.

3 (b) The treatment plan shall include all of the  
4 following:

5 (1) Immediate crisis response 24 hours a day, seven  
6 days a week.

7 (2) Direct coordination of all medical, psychiatric, and  
8 general health care.

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

10 (4) Provision and supervision of prescribed  
11 medication.

12 (5) Supportive therapy including dual diagnosis.

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

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

18 (8) Day or partial day programs.

19 (9) Family support and outreach.

20 (10) Client-site requested support in coping with life's  
21 daily demands including assistance with any or all of the  
22 following:

23 (A) Obtaining financial entitlements through the  
24 federal Supplemental Security Income (SSI) program,  
25 the federal Social Security Disability Insurance (SSDI)  
26 program, and the Medi-Cal program.

27 (B) Obtaining available insurance coverage.

28 (C) Accessing housing and residential vouchers.

29 (D) Learning how to live independently or with a  
30 roommate.

31 (E) Accessing treatment for coexisting substance  
32 abuse.

33 (F) Accessing vocational service and helping to find  
34 employment.

35 (G) Dealing with legal issues.

36 5261. In the event the patient does not or cannot  
37 abide by the terms of the agreed upon community  
38 treatment plan, including medication compliance, and  
39 the person poses an acute risk of physical or psychiatric  
40 deterioration, the person may, by court order, be



1 returned to inpatient treatment for the remaining days  
2 of the underlying involuntary treatment certification.

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

7 (a) The person agrees to community assisted  
8 outpatient treatment.

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

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

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

16 5270.15. Upon the completion of a 28-day period of  
17 intensive treatment pursuant to Section 5250, the person  
18 may be certified for an additional period of not more than  
19 30 days of intensive treatment under both of the following  
20 conditions:

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

25 (b) The person remains unwilling or unable to accept  
26 treatment voluntarily.

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

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



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

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

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

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

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

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



1 clear and convincing evidence that one of the following  
2 exists:

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

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

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

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

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

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

37 5301. At any time during the 28-day intensive  
38 treatment period the professional person in charge of the  
39 licensed health facility, or his or her designee, may ask the  
40 public officer required by Section 5114 to present



1 evidence at proceedings under this article to petition the  
 2 superior court in the county in which the licensed health  
 3 facility providing treatment is located for an order  
 4 requiring the person to undergo an additional period of  
 5 treatment on the grounds set forth in Section 5300. The  
 6 petition shall summarize the facts that support the  
 7 contention that the person falls within the standard set  
 8 forth in Section 5300. The petition shall be supported by  
 9 affidavits describing in detail the behavior that indicates  
 10 that the person falls within the standard set forth in  
 11 Section 5300.

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

16 The petition shall be in the following form:

17  
 18  
 19  
 20

Petition for Postcertification Treatment of a  
 Dangerous Person

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



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

11 My allegation is based upon the following facts:

12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_  
 17 \_\_\_\_\_  
 18 \_\_\_\_\_

19 This allegation is supported by the accompanying  
 20 affidavits signed by \_\_\_\_\_.

21  
 22 Signed \_\_\_\_\_  
 23

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

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

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



1 ~~evidence~~, that the person named in the petition for  
2 postcertification treatment has done any of the following:

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

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

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

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

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

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

19 (c) For those patients who have not already been  
20 determined to lack the capacity to refuse treatment with  
21 psychotropic medications pursuant to Section 5256.6,  
22 each hospital in conjunction with the hospital medical  
23 staff or any other treatment facility in conjunction with  
24 its clinical staff shall develop internal procedures for  
25 facilitating the filing of petitions for capacity hearings and  
26 other activities required pursuant to this chapter. *At the*  
27 *time a facility providing intensive medical treatment*  
28 *under this section notifies the court of the certifications*  
29 *for additional treatment, the facility shall also notify the*  
30 *court that the patient is refusing psychotropic medication*  
31 *and whether the patient has requested a finding*  
32 *regarding his or her capacity to refuse the psychotropic*  
33 *medication.*

34 (d) In the case of an emergency, as defined in  
35 subdivision (m) of Section 5008, a person detained  
36 pursuant to Section 5150, 5250, or 5270.15 may be treated  
37 with antipsychotic medication over his or her objection  
38 prior to a capacity hearing, but only with antipsychotic  
39 medication that is required to treat the emergency  
40 condition, which shall be provided in the manner least



1 restrictive to the personal liberty of the patient. It is not  
2 necessary for harm to take place or become unavoidable  
3 prior to intervention.

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

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

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

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

33 (c) Capacity hearings shall be conducted by those  
34 individuals authorized to conduct certification review  
35 hearings pursuant to Section 5256.1. All hearing officers  
36 shall receive training in the issues specific to capacity  
37 hearings.

38 (d) The person who is the subject of the capacity  
39 hearing shall be given oral notification of the  
40 determination at the conclusion of the capacity hearing.



1 As soon thereafter as is practicable, the person, his or her  
2 counsel or advocate, and the director of the facility where  
3 the person is receiving treatment shall be provided with  
4 written notification of the capacity determination, which  
5 shall include a statement of the evidence relied upon and  
6 the reasons for the determination. A copy of the  
7 determination shall be submitted to the superior court.

8 (e) (1) The person who is the subject of the capacity  
9 hearing may appeal the determination to the superior  
10 court or the court of appeal.

11 (2) The person who has filed the original petition for  
12 a capacity hearing may request the district attorney or  
13 county counsel in the county in which the person is  
14 receiving treatment to appeal the determination to the  
15 superior court or the court of appeal, on behalf of the  
16 state.

17 (3) Nothing shall prohibit treatment from being  
18 initiated pending appeal of a determination of incapacity  
19 pursuant to this section.

20 (4) Nothing in this section shall be construed to  
21 preclude the right of a person to bring a writ of habeas  
22 corpus pursuant to Section 5275, subject to the provisions  
23 of this chapter.

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

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

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

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

38 5350. A conservator of the person, of the estate, or of  
39 the person and the estate may be appointed for any



1 person who is gravely disabled as a result of mental  
2 disorder or impairment by chronic alcoholism.

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

7 (a) A conservator may be appointed for a gravely  
8 disabled minor.

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

17 (2) In appointing a conservator, as defined in  
18 subparagraph (B) of paragraph (1) of subdivision (h) of  
19 Section 5008, the court shall consider the purposes of  
20 protection of the public and the treatment of the  
21 conservatee.

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

33 (d) The person for whom conservatorship is sought  
34 shall have the right to demand a court or jury trial on the  
35 issue whether he or she is gravely disabled. ~~The issue shall~~  
36 ~~be proved by clear and convincing evidence.~~ Demand for  
37 court or jury trial shall be made within five days following  
38 the hearing on the conservatorship petition. If the  
39 proposed conservatee demands a court or jury trial



1 before the date of the hearing as provided for in Section  
2 5365, the demand shall constitute a waiver of the hearing.

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

7 This right shall also apply in subsequent proceedings to  
8 reestablish conservatorship.

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

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

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

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

31 (f) Conservatorship investigation shall be conducted  
32 pursuant to this part and shall not be subject to Section  
33 1826 or Chapter 2 (commencing with Section 1850) of  
34 Part 3 of Division 4 of the Probate Code.

35 (g) Notice of proceedings under this chapter shall be  
36 given to a guardian or conservator of the person or estate  
37 of the proposed conservatee appointed under the  
38 Probate Code.

39 (h) As otherwise provided in this chapter.



1 SEC. 19. (a) The State Department of Mental Health  
2 shall require counties to submit data and progress reports  
3 to the department, including, but not limited to, the  
4 numbers of persons being assigned to involuntary  
5 inpatient and outpatient treatment, the length of time for  
6 which persons are detained and treated involuntarily for  
7 inpatient and outpatient treatment, changes in mental  
8 health treatment utilization patterns, and the  
9 effectiveness of community assisted outpatient treatment  
10 programs.

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

14 (c) This report shall include recommendations to the  
15 Legislature relative to how the involuntary treatment is  
16 being implemented, whether further involuntary  
17 treatment policy changes are recommended, and  
18 whether inpatient and community-assisted outpatient  
19 mental health services are effective and warrant  
20 additional funding.

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

32 SEC. 21. Notwithstanding Section 17610 of the  
33 Government Code, if the Commission on State Mandates  
34 determines that this act contains costs mandated by the  
35 state, reimbursement to local agencies and school  
36 districts for those costs shall be made pursuant to Part 7  
37 (commencing with Section 17500) of Division 4 of Title  
38 2 of the Government Code. If the statewide cost of the  
39 claim for reimbursement does not exceed one million



1 dollars (\$1,000,000), reimbursement shall be made from  
2 the State Mandates Claims Fund.

O

