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AMENDED IN ASSEMBLY MAY 10, 2000
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CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1800

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

January 27, 2000

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1800, as amended, Thomson. Mental health.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons who are dangerous to self or others, or

gravely disabled, as defined. Existing law requires each person admitted to a facility for 72-hour treatment and evaluation to receive an evaluation as soon after he or she is admitted as possible and receive whatever treatment and care his or her condition requires for the full period that he or she is held. Existing law further provides that if a person is detained for 72 hours or under court order for evaluation and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental disorder or impairment by chronic alcoholism if certain conditions are met.

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, *subject to the appropriation of funds for this purpose* 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: $\frac{2}{3}$ majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 2600 of the Penal Code is
2 amended to read:
3 2600. A person sentenced to imprisonment in a state
4 prison may during that period of confinement be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (ii) For purposes of clause (i), “psychiatric harm”
21 means an exacerbation or escalation of symptoms or
22 behaviors during the 30 days prior to detention that
23 render it more likely than not that the person will be
24 unable to provide for his or her basic needs or become
25 dangerous to self or others.

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

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

33 (ii) The indictment or information has not been
34 dismissed.

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

39 (2) For purposes of Article 3 (commencing with
40 Section 5225) and Article 4 (commencing with Section

1 5250), of Chapter 2, and for the purposes of Chapter 3
2 (commencing with Section 5350), “gravely disabled”
3 means a condition in which a person, as a result of
4 impairment by chronic alcoholism, is unable to provide
5 for his or her basic personal needs for food, clothing, or
6 shelter.

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

10 (i) “Peace officer” means a duly sworn peace officer
11 as that term is defined in Chapter 4.5 (commencing with
12 Section 830) of Title 3 of Part 2 of the Penal Code who has
13 completed the basic training course established by the
14 Commission on Peace Officer Standards and Training, or
15 any parole officer or probation officer specified in Section
16 830.5 of the Penal Code when acting in relation to cases
17 for which he or she has a legally mandated responsibility.

18 (j) “Postcertification treatment” means an additional
19 period of treatment pursuant to Article 6 (commencing
20 with Section 5300) of Chapter 2.

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

23 (l) “Antipsychotic medication” means any medication
24 customarily prescribed for the treatment of symptoms of
25 psychoses and other severe mental and emotional
26 disorders.

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

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

36 5250. If a person is detained for 72 hours under the
37 provisions of Article 1 (commencing with Section 5150),
38 or under court order for evaluation pursuant to Article 2
39 (commencing with Section 5200) or Article 3
40 (commencing with Section 5225) and has received an

1 evaluation, he or she may be certified for not more than
2 14 days of intensive treatment related to the mental
3 disorder or impairment by chronic alcoholism, under the
4 following conditions:

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

10 (b) The facility providing intensive treatment is
11 designated by the county to provide intensive treatment,
12 and agrees to admit the person. No facility shall be
13 designated to provide intensive treatment unless it
14 complies with the certification review hearing required
15 by this article. The procedures shall be described in the
16 county Short-Doyle plan.

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

20 (d) (1) Notwithstanding paragraph (1) of subdivision
21 (h) of Section 5008, a person is not "gravely disabled" if
22 that person can survive safely without involuntary
23 detention with the help of responsible family, friends, or
24 others who are both willing and able to help provide for
25 the person's basic personal needs for food, clothing, or
26 shelter and who are willing and able to assist the person
27 in meeting his or her medical and psychiatric needs.

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

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

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

1 5256.5. If at the conclusion of the certification review
2 hearing the person conducting the hearing finds that
3 there is not probable cause to believe that the person
4 certified should be involuntarily detained, then the
5 person certified may no longer be involuntarily detained.
6 Nothing in this section shall prohibit the person from
7 remaining at the facility on a voluntary basis or the facility
8 from providing the person with appropriate referral
9 information concerning mental health services.

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

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

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

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

39 (d) If the person conducting the certification hearing
40 determines that the patient does not lack capacity to

1 refuse treatment by psychotropic medications, judicial
2 review of the decision may be initiated by the director or
3 the director's designee pursuant to subdivision (b) of
4 Section 5333 and paragraph (2) of subdivision (e) of
5 Section 5334. The superior court shall conduct the
6 hearing de novo, as provided in subdivision (f) of Section
7 5334.

8 (e) If any person is certified for intensive medical
9 treatment pursuant to this section, the agency or facility
10 providing the treatment shall acquire his or her
11 medication history.

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

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

1 A person who has been certified for a period of
2 intensive treatment pursuant to Section 5250 shall be
3 released at the end of 14 days unless the patient either:

4 (a) Agrees to receive further treatment on a voluntary
5 basis.

6 (b) Is certified for an additional 180 days of community
7 assisted outpatient treatment pursuant to Article ~~4.5~~ 4.8
8 (commencing with Section ~~5260~~ 5280).

9 (c) Is certified for an additional 14 days of intensive
10 treatment pursuant to Article 4.5 (commencing with
11 Section 5260).

12 (d) Is certified for an additional 30 days of intensive
13 treatment pursuant to Article 4.7 (commencing with
14 Section 5270.10).

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

17 (f) Is the subject of a Petition for Postcertification of a
18 Dangerous Person filed pursuant to Article 6
19 (commencing with Section 5300).

20 SEC. 7. Article 4.8 (commencing with Section 5280)
21 is added to Chapter 2 of Part 1 of Division 5 of the Welfare
22 and Institutions Code, to read:

23
24 Article 4.8. Community Assisted Outpatient
25 Treatment Programs
26

27 5280. Persons committed pursuant to Sections 5150,
28 5250, 5260, and 5270.15 shall be placed in community
29 assisted outpatient treatment programs for 180 days if all
30 of the following conditions exist:

31 (a) A hearing officer finds that he or she requires
32 continuing treatment and care under supervised
33 conditions to maintain and improve recovery and the
34 person is sufficiently stable to benefit from community
35 treatment in an appropriate unlocked setting.

36 (b) The person agrees to community assisted
37 outpatient treatment.

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

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

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

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

(2) For purposes of this article, "assisted outpatient care expeditor" means one who will coordinate all services provided to the client pursuant to this section.

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

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

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

(3) Help in managing symptoms of mental illness.

(4) Provision and supervision of prescribed medication.

(5) Supportive therapy including dual diagnosis.

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

(7) Individual or group therapy, or both.

(8) Day or partial day programs.

(9) Family support and outreach.

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

1 (A) Obtaining financial entitlements through the
2 federal Supplemental Security Income (SSI) program,
3 the federal Social Security Disability Insurance (SSDI)
4 program, and the Medi-Cal program.

5 (B) Obtaining available insurance coverage.

6 (C) Accessing housing and residential vouchers.

7 (D) Learning how to live independently or with a
8 roommate.

9 (E) Accessing treatment for coexisting substance
10 abuse.

11 (F) Accessing vocational service and helping to find
12 employment.

13 (G) Dealing with legal issues.

14 5281. In the event the patient does not or cannot
15 abide by the terms of the agreed upon community
16 treatment plan, including medication compliance, and
17 the person poses an acute risk of physical or psychiatric
18 deterioration, the person may, by court order, be
19 returned to inpatient treatment for the remaining days
20 of the underlying involuntary treatment certification.

21 5282. Persons diagnosed with severe and persistent
22 mental illness may receive treatment in community
23 assisted outpatient treatment programs for 180 days if all
24 of the following requirements are met:

25 (a) The person agrees to community assisted
26 outpatient treatment.

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

29 (c) A community treatment plan is prepared by the
30 multidisciplinary outpatient treatment team and is
31 agreed to by all parties.

32 5283. *The department shall implement this article*
33 *only to the extent funds are appropriated for this purpose.*

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

36 5300. (a) At the expiration of the 14-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



1 beyond a reasonable doubt 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. 9. Section 5301 of the Welfare and Institutions
36 Code is amended to read:

37 5301. At any time during the 14-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 Petition for Postcertification Treatment of a
19 Dangerous Person

20

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 one year, pursuant to the
29 provisions of Article 6 (commencing with Section 5300)
30 of Chapter 2 of Part 1 of Division 5 of the Welfare and
31 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. 10. 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, beyond a reasonable doubt, finds that the

1 person named in the petition for postcertification
2 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. 11. 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) 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, 5260, or 5270.15 may be
37 treated with antipsychotic medication over his or her
38 objection prior to a capacity hearing, but only with
39 antipsychotic medication that is required to treat the
40 emergency condition, which shall be provided in the

1 manner least restrictive to the personal liberty of the
2 patient. It is not necessary for harm to take place or
3 become unavoidable 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. 12. 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. 13. 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. 14. 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 beyond a reasonable doubt. Demand for court
37 or jury trial shall be made within five days following the
38 hearing on the conservatorship petition. If the proposed
39 conservatee demands a court or jury trial before the date

1 of the hearing as provided for in Section 5365, the demand
2 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. 15. (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. 16. 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. 17.—~~

33 SEC. 16. Notwithstanding Section 17610 of the
34 Government Code, if the Commission on State Mandates
35 determines that this act contains costs mandated by the
36 state, reimbursement to local agencies and school
37 districts for those costs shall be made pursuant to Part 7
38 (commencing with Section 17500) of Division 4 of Title
39 2 of the Government Code. If the statewide cost of the
40 claim for reimbursement does not exceed one million

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

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