

AMENDED IN ASSEMBLY MARCH 15, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2234**

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**Introduced by Assembly Member Bonnie Lowenthal**

February 18, 2010

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An act to amend Section ~~5600.3~~ 1170.9 of the Penal Code, and to amend Sections 5346, 5600.3, 5600.6, 5600.7, 5813.5, and 5814 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2234, as amended, Bonnie Lowenthal. Mental health: target populations: older adults.

Existing law, the Bronzan-McCorquodale Act, contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Fund to fund various county mental health programs. The act may be amended by the Legislature only by a  $\frac{2}{3}$  vote of both houses and only so long as the amendment is consistent with and furthers the intent of the act. The Legislature may clarify procedures and terms of the act by majority vote.

Existing law, the Adult and Older Adult Mental Health System of Care Act, sets out a system of mental health care services, provided by participating counties pursuant to Proposition 63, for adults and older adults with serious mental disorders. Existing law defines serious mental

disorders and includes a definition of functional impairment for that purpose.

This bill would make the current definition of functional impairment applicable to adults 18 to 59 years of age, inclusive, and would, in addition, establish a definition of functional impairment for adults 60 years of age or older. The bill would also make ~~eligible for services pursuant to this program adults 60 years of age or older who require brief treatment as a result of a natural disaster or severe local emergency~~ *conforming changes*.

By expanding eligibility for community mental health services, this bill would create a state-mandated local program.

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.

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:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: yes.

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

- 1     SECTION 1. Section 1170.9 of the Penal Code is amended to
- 2     read:
- 3     1170.9. (a) In the case of any person convicted of a criminal
- 4     offense who would otherwise be sentenced to county jail or state
- 5     prison and who alleges that he or she committed the offense as a
- 6     result of post-traumatic stress disorder, substance abuse, or
- 7     psychological problems stemming from service in a combat theater
- 8     in the United States military, the court shall, prior to sentencing,
- 9     hold a hearing to determine whether the defendant was a member
- 10    of the military forces of the United States who served in combat
- 11    and shall assess whether the defendant suffers from post-traumatic
- 12    stress disorder, substance abuse, or psychological problems as a
- 13    result of that service.
- 14    (b) If the court concludes that a defendant convicted of a
- 15    criminal offense is a person described in subdivision (a), and if
- 16    the defendant is otherwise eligible for probation and the court
- 17    places the defendant on probation, the court may order the

1 defendant into a local, state, federal, or private nonprofit treatment  
2 program for a period not to exceed that which the defendant would  
3 have served in state prison or county jail, provided the defendant  
4 agrees to participate in the program and the court determines that  
5 an appropriate treatment program exists.

6 (c) If a referral is made to the county mental health authority,  
7 the county shall be obligated to provide mental health treatment  
8 services only to the extent that resources are available for that  
9 purpose, as described in ~~paragraph (5) of subdivision (b) (e)~~ of  
10 Section 5600.3 of the Welfare and Institutions Code. If mental  
11 health treatment services are ordered by the court, the county  
12 mental health agency shall coordinate appropriate referral of the  
13 defendant to the county veterans service officer, as described in  
14 ~~paragraph (5) of subdivision (b) (e)~~ of Section 5600.3 of the  
15 Welfare and Institutions Code. The county mental health agency  
16 shall not be responsible for providing services outside its traditional  
17 scope of services. An order shall be made referring a defendant to  
18 a county mental health agency only if that agency has agreed to  
19 accept responsibility for the treatment of the defendant.

20 (d) When determining the “needs of the defendant,” for purposes  
21 of Section 1202.7, the court shall consider the fact that the  
22 defendant is a person described in subdivision (a) in assessing  
23 whether the defendant should be placed on probation and whether  
24 the defendant would be best served while on probation by being  
25 ordered into a private nonprofit treatment service program with a  
26 demonstrated history of specializing in the treatment of military  
27 service-related issues, such as post-traumatic stress disorder,  
28 substance abuse, or psychological problems.

29 (e) A defendant granted probation under this section and  
30 committed to a residential treatment program shall earn sentence  
31 credits for the actual time the defendant served in residential  
32 treatment.

33 (f) The court, in making an order under this section to commit  
34 a defendant to an established treatment program, shall give  
35 preference to a treatment program that has a history of successfully  
36 treating combat veterans who suffer from post-traumatic stress  
37 disorder, substance abuse, or psychological problems as a result  
38 of that service.

39 *SEC. 2. Section 5346 of the Welfare and Institutions Code is*  
40 *amended to read:*

1 5346. (a) In any county in which services are available as  
2 provided in Section 5348, a court may order a person who is the  
3 subject of a petition filed pursuant to this section to obtain assisted  
4 outpatient treatment if the court finds, by clear and convincing  
5 evidence, that the facts stated in the verified petition filed in  
6 accordance with this section are true and establish that all of the  
7 requisite criteria set forth in this section are met, including, but  
8 not limited to, each of the following:

9 (1) The person is 18 years of age or older.

10 (2) The person is suffering from a mental illness as defined in  
11 ~~paragraphs (2) and (3) of subdivision (b) subdivision (b) or (c) of~~  
12 Section 5600.3.

13 (3) There has been a clinical determination that the person is  
14 unlikely to survive safely in the community without supervision.

15 (4) The person has a history of lack of compliance with  
16 treatment for his or her mental illness, in that at least one of the  
17 following is true:

18 (A) The person's mental illness has, at least twice within the  
19 last 36 months, been a substantial factor in necessitating  
20 hospitalization, or receipt of services in a forensic or other mental  
21 health unit of a state correctional facility or local correctional  
22 facility, not including any period during which the person was  
23 hospitalized or incarcerated immediately preceding the filing of  
24 the petition.

25 (B) The person's mental illness has resulted in one or more acts  
26 of serious and violent behavior toward himself or herself or  
27 another, or threats, or attempts to cause serious physical harm to  
28 himself or herself or another within the last 48 months, not  
29 including any period in which the person was hospitalized or  
30 incarcerated immediately preceding the filing of the petition.

31 (5) The person has been offered an opportunity to participate  
32 in a treatment plan by the director of the local mental health  
33 department, or his or her designee, provided the treatment plan  
34 includes all of the services described in Section 5348, and the  
35 person continues to fail to engage in treatment.

36 (6) The person's condition is substantially deteriorating.

37 (7) Participation in the assisted outpatient treatment program  
38 would be the least restrictive placement necessary to ensure the  
39 person's recovery and stability.

1 (8) In view of the person's treatment history and current  
2 behavior, the person is in need of assisted outpatient treatment in  
3 order to prevent a relapse or deterioration that would be likely to  
4 result in grave disability or serious harm to himself or herself, or  
5 to others, as defined in Section 5150.

6 (9) It is likely that the person will benefit from assisted  
7 outpatient treatment.

8 (b) (1) A petition for an order authorizing assisted outpatient  
9 treatment may be filed by the county mental health director, or his  
10 or her designee, in the superior court in the county in which the  
11 person who is the subject of the petition is present or reasonably  
12 believed to be present.

13 (2) A request may be made only by any of the following persons  
14 to the county mental health department for the filing of a petition  
15 to obtain an order authorizing assisted outpatient treatment:

16 (A) Any person 18 years of age or older with whom the person  
17 who is the subject of the petition resides.

18 (B) Any person who is the parent, spouse, or sibling or child  
19 18 years of age or older of the person who is the subject of the  
20 petition.

21 (C) The director of any public or private agency, treatment  
22 facility, charitable organization, or licensed residential care facility  
23 providing mental health services to the person who is the subject  
24 of the petition in whose institution the subject of the petition  
25 resides.

26 (D) The director of a hospital in which the person who is the  
27 subject of the petition is hospitalized.

28 (E) A licensed mental health treatment provider who is either  
29 supervising the treatment of, or treating for a mental illness, the  
30 person who is the subject of the petition.

31 (F) A peace officer, parole officer, or probation officer assigned  
32 to supervise the person who is the subject of the petition.

33 (3) Upon receiving a request pursuant to paragraph (2), the  
34 county mental health director shall conduct an investigation into  
35 the appropriateness of the filing of the petition. The director shall  
36 file the petition only if he or she determines that there is a  
37 reasonable likelihood that all the necessary elements to sustain the  
38 petition can be proven in a court of law by clear and convincing  
39 evidence.

40 (4) The petition shall state all of the following:

- 1 (A) Each of the criteria for assisted outpatient treatment as set  
2 forth in subdivision (a).
- 3 (B) Facts that support the petitioner’s belief that the person who  
4 is the subject of the petition meets each criterion, provided that  
5 the hearing on the petition shall be limited to the stated facts in  
6 the verified petition, and the petition contains all the grounds on  
7 which the petition is based, in order to ensure adequate notice to  
8 the person who is the subject of the petition and his or her counsel.
- 9 (C) That the person who is the subject of the petition is present,  
10 or is reasonably believed to be present, within the county where  
11 the petition is filed.
- 12 (D) That the person who is the subject of the petition has the  
13 right to be represented by counsel in all stages of the proceeding  
14 under the petition, in accordance with subdivision (c).
- 15 (5) The petition shall be accompanied by an affidavit of a  
16 licensed mental health treatment provider designated by the local  
17 mental health director who shall state, if applicable, either of the  
18 following:
  - 19 (A) That the licensed mental health treatment provider has  
20 personally examined the person who is the subject of the petition  
21 no more than 10 days prior to the submission of the petition, the  
22 facts and reasons why the person who is the subject of the petition  
23 meets the criteria in subdivision (a), that the licensed mental health  
24 treatment provider recommends assisted outpatient treatment for  
25 the person who is the subject of the petition, and that the licensed  
26 mental health treatment provider is willing and able to testify at  
27 the hearing on the petition.
  - 28 (B) That no more than 10 days prior to the filing of the petition,  
29 the licensed mental health treatment provider, or his or her  
30 designee, has made appropriate attempts to elicit the cooperation  
31 of the person who is the subject of the petition, but has not been  
32 successful in persuading that person to submit to an examination,  
33 that the licensed mental health treatment provider has reason to  
34 believe that the person who is the subject of the petition meets the  
35 criteria for assisted outpatient treatment, and that the licensed  
36 mental health treatment provider is willing and able to examine  
37 the person who is the subject of the petition and testify at the  
38 hearing on the petition.
  - 39 (c) The person who is the subject of the petition shall have the  
40 right to be represented by counsel at all stages of a proceeding

1 commenced under this section. If the person so elects, the court  
2 shall immediately appoint the public defender or other attorney to  
3 assist the person in all stages of the proceedings. The person shall  
4 pay the cost of the legal services if he or she is able.

5 (d) (1) Upon receipt by the court of a petition submitted  
6 pursuant to subdivision (b), the court shall fix the date for a hearing  
7 at a time not later than five days from the date the petition is  
8 received by the court, excluding Saturdays, Sundays, and holidays.  
9 The petitioner shall promptly cause service of a copy of the  
10 petition, together with written notice of the hearing date, to be  
11 made personally on the person who is the subject of the petition,  
12 and shall send a copy of the petition and notice to the county office  
13 of patient rights, and to the current health care provider appointed  
14 for the person who is the subject of the petition, if any such  
15 provider is known to the petitioner. Continuances shall be permitted  
16 only for good cause shown. In granting continuances, the court  
17 shall consider the need for further examination by a physician or  
18 the potential need to provide expeditiously assisted outpatient  
19 treatment. Upon the hearing date, or upon any other date or dates  
20 to which the proceeding may be continued, the court shall hear  
21 testimony. If it is deemed advisable by the court, and if the person  
22 who is the subject of the petition is available and has received  
23 notice pursuant to this section, the court may examine in or out of  
24 court the person who is the subject of the petition who is alleged  
25 to be in need of assisted outpatient treatment. If the person who is  
26 the subject of the petition does not appear at the hearing, and  
27 appropriate attempts to elicit the attendance of the person have  
28 failed, the court may conduct the hearing in the person's absence.  
29 If the hearing is conducted without the person present, the court  
30 shall set forth the factual basis for conducting the hearing without  
31 the person's presence.

32 (2) The court shall not order assisted outpatient treatment unless  
33 an examining licensed mental health treatment provider, who has  
34 personally examined, and has reviewed the available treatment  
35 history of, the person who is the subject of the petition within the  
36 time period commencing 10 days before the filing of the petition,  
37 testifies in person at the hearing.

38 (3) If the person who is the subject of the petition has refused  
39 to be examined by a licensed mental health treatment provider,  
40 the court may request that the person consent to an examination

1 by a licensed mental health treatment provider appointed by the  
2 court. If the person who is the subject of the petition does not  
3 consent and the court finds reasonable cause to believe that the  
4 allegations in the petition are true, the court may order any person  
5 designated under Section 5150 to take into custody the person who  
6 is the subject of the petition and transport him or her, or cause him  
7 or her to be transported, to a hospital for examination by a licensed  
8 mental health treatment provider as soon as is practicable.  
9 Detention of the person who is the subject of the petition under  
10 the order may not exceed 72 hours. If the examination is performed  
11 by another licensed mental health treatment provider, the  
12 examining licensed mental health treatment provider may consult  
13 with the licensed mental health treatment provider whose  
14 affirmation or affidavit accompanied the petition regarding the  
15 issues of whether the allegations in the petition are true and whether  
16 the person meets the criteria for assisted outpatient treatment.

17 (4) The person who is the subject of the petition shall have all  
18 of the following rights:

19 (A) To adequate notice of the hearings to the person who is the  
20 subject of the petition, as well as to parties designated by the person  
21 who is the subject of the petition.

22 (B) To receive a copy of the court-ordered evaluation.

23 (C) To counsel. If the person has not retained counsel, the court  
24 shall appoint a public defender.

25 (D) To be informed of his or her right to judicial review by  
26 habeas corpus.

27 (E) To be present at the hearing unless he or she waives the  
28 right to be present.

29 (F) To present evidence.

30 (G) To call witnesses on his or her behalf.

31 (H) To cross-examine witnesses.

32 (I) To appeal decisions, and to be informed of his or her right  
33 to appeal.

34 (5) (A) If after hearing all relevant evidence, the court finds  
35 that the person who is the subject of the petition does not meet the  
36 criteria for assisted outpatient treatment, the court shall dismiss  
37 the petition.

38 (B) If after hearing all relevant evidence, the court finds that  
39 the person who is the subject of the petition meets the criteria for  
40 assisted outpatient treatment, and there is no appropriate and

1 feasible less restrictive alternative, the court may order the person  
2 who is the subject of the petition to receive assisted outpatient  
3 treatment for an initial period not to exceed six months. In  
4 fashioning the order, the court shall specify that the proposed  
5 treatment is the least restrictive treatment appropriate and feasible  
6 for the person who is the subject of the petition. The order shall  
7 state the categories of assisted outpatient treatment, as set forth in  
8 Section 5348, that the person who is the subject of the petition is  
9 to receive, and the court may not order treatment that has not been  
10 recommended by the examining licensed mental health treatment  
11 provider and included in the written treatment plan for assisted  
12 outpatient treatment as required by subdivision (e). If the person  
13 has executed an advance health care directive pursuant to Chapter  
14 2 (commencing with Section 4650) of Part 1 of Division 4.7 of  
15 the Probate Code, any directions included in the advance health  
16 care directive shall be considered in formulating the written  
17 treatment plan.

18 (6) If the person who is the subject of a petition for an order for  
19 assisted outpatient treatment pursuant to subparagraph (B) of  
20 paragraph (5) of subdivision (d) refuses to participate in the assisted  
21 outpatient treatment program, the court may order the person to  
22 meet with the assisted outpatient treatment team designated by the  
23 director of the assisted outpatient treatment program. The treatment  
24 team shall attempt to gain the person's cooperation with treatment  
25 ordered by the court. The person may be subject to a 72-hour hold  
26 pursuant to subdivision (f) only after the treatment team has  
27 attempted to gain the person's cooperation with treatment ordered  
28 by the court, and has been unable to do so.

29 (e) Assisted outpatient treatment shall not be ordered unless the  
30 licensed mental health treatment provider recommending assisted  
31 outpatient treatment to the court has submitted to the court a written  
32 treatment plan that includes services as set forth in Section 5348,  
33 and the court finds, in consultation with the county mental health  
34 director, or his or her designee, all of the following:

35 (1) That the services are available from the county, or a provider  
36 approved by the county, for the duration of the court order.

37 (2) That the services have been offered to the person by the  
38 local director of mental health, or his or her designee, and the  
39 person has been given an opportunity to participate on a voluntary

1 basis, and the person has failed to engage in, or has refused,  
2 treatment.

3 (3) That all of the elements of the petition required by this article  
4 have been met.

5 (4) That the treatment plan will be delivered to the county  
6 director of mental health, or to his or her appropriate designee.

7 (f) If, in the clinical judgment of a licensed mental health  
8 treatment provider, the person who is the subject of the petition  
9 has failed or has refused to comply with the treatment ordered by  
10 the court, and, in the clinical judgment of the licensed mental health  
11 treatment provider, efforts were made to solicit compliance, and,  
12 in the clinical judgment of the licensed mental health treatment  
13 provider, the person may be in need of involuntary admission to  
14 a hospital for evaluation, the provider may request that persons  
15 designated under Section 5150 take into custody the person who  
16 is the subject of the petition and transport him or her, or cause him  
17 or her to be transported, to a hospital, to be held up to 72 hours for  
18 examination by a licensed mental health treatment provider to  
19 determine if the person is in need of treatment pursuant to Section  
20 5150. Any continued involuntary retention in a hospital beyond  
21 the initial 72-hour period shall be pursuant to Section 5150. If at  
22 any time during the 72-hour period the person is determined not  
23 to meet the criteria of Section 5150, and does not agree to stay in  
24 the hospital as a voluntary patient, he or she shall be released and  
25 any subsequent involuntary detention in a hospital shall be pursuant  
26 to Section 5150. Failure to comply with an order of assisted  
27 outpatient treatment alone may not be grounds for involuntary  
28 civil commitment or a finding that the person who is the subject  
29 of the petition is in contempt of court.

30 (g) If the director of the assisted outpatient treatment program  
31 determines that the condition of the patient requires further assisted  
32 outpatient treatment, the director shall apply to the court, prior to  
33 the expiration of the period of the initial assisted outpatient  
34 treatment order, for an order authorizing continued assisted  
35 outpatient treatment for a period not to exceed 180 days from the  
36 date of the order. The procedures for obtaining any order pursuant  
37 to this subdivision shall be in accordance with subdivisions (a) to  
38 (f), inclusive. The period for further involuntary outpatient  
39 treatment authorized by any subsequent order under this  
40 subdivision may not exceed 180 days from the date of the order.

1 (h) At intervals of not less than 60 days during an assisted  
2 outpatient treatment order, the director of the outpatient treatment  
3 program shall file an affidavit with the court that ordered the  
4 outpatient treatment affirming that the person who is the subject  
5 of the order continues to meet the criteria for assisted outpatient  
6 treatment. At these times, the person who is the subject of the order  
7 shall have the right to a hearing on whether or not he or she still  
8 meets the criteria for assisted outpatient treatment if he or she  
9 disagrees with the director's affidavit. The burden of proof shall  
10 be on the director.

11 (i) During each 60-day period specified in subdivision (h), if  
12 the person who is the subject of the order believes that he or she  
13 is being wrongfully retained in the assisted outpatient treatment  
14 program against his or her wishes, he or she may file a petition for  
15 a writ of habeas corpus, thus requiring the director of the assisted  
16 outpatient treatment program to prove that the person who is the  
17 subject of the order continues to meet the criteria for assisted  
18 outpatient treatment.

19 (j) Any person ordered to undergo assisted outpatient treatment  
20 pursuant to this article, who was not present at the hearing at which  
21 the order was issued, may immediately petition the court for a writ  
22 of habeas corpus. Treatment under the order for assisted outpatient  
23 treatment may not commence until the resolution of that petition.

24 ~~SECTION 1.~~

25 *SEC. 3.* Section 5600.3 of the Welfare and Institutions Code  
26 is amended to read:

27 5600.3. To the extent resources are available, the primary goal  
28 of the use of funds deposited in the mental health account of the  
29 local health and welfare trust fund should be to serve the target  
30 populations identified in the following categories, which shall not  
31 be construed as establishing an order of priority:

32 (a) (1) Seriously emotionally disturbed children or adolescents.

33 (2) For the purposes of this part, "seriously emotionally  
34 disturbed children or adolescents" means minors under the age of  
35 18 years who have a mental disorder as identified in the most recent  
36 edition of the Diagnostic and Statistical Manual of Mental  
37 Disorders, other than a primary substance use disorder or  
38 developmental disorder, which results in behavior inappropriate  
39 to the child's age according to expected developmental norms.

1 Members of this target population shall meet one or more of the  
 2 following criteria:

3 (A) As a result of the mental disorder, the child has substantial  
 4 impairment in at least two of the following areas: self-care, school  
 5 functioning, family relationships, or ability to function in the  
 6 community; and either of the following occur:

7 (i) The child is at risk of removal from home or has already  
 8 been removed from the home.

9 (ii) The mental disorder and impairments have been present for  
 10 more than six months or are likely to continue for more than one  
 11 year without treatment.

12 (B) The child displays one of the following: psychotic features,  
 13 risk of suicide or risk of violence due to a mental disorder.

14 (C) The child meets special education eligibility requirements  
 15 under Chapter 26.5 (commencing with Section 7570) of Division  
 16 7 of Title 1 of the Government Code.

17 (b) (1) ~~Adults and older adults~~ *18 to 59 years of age, inclusive,*  
 18 who have a serious mental disorder.

19 (2) For the purposes of this part, “serious mental disorder”  
 20 means a mental disorder that is severe in degree and persistent in  
 21 duration, that may cause behavioral functioning which interferes  
 22 substantially with the primary activities of daily living, and that  
 23 may result in an inability to maintain stable adjustment and  
 24 independent functioning without treatment, support, and  
 25 rehabilitation for a long or indefinite period of time. Serious mental  
 26 disorders include, but are not limited to, schizophrenia, bipolar  
 27 disorder, post-traumatic stress disorder, as well as major affective  
 28 disorders or other severely disabling mental disorders. This section  
 29 shall not be construed to exclude persons with a serious mental  
 30 disorder and a diagnosis of substance abuse, developmental  
 31 disability, or other physical or mental disorder.

32 (3) Members of this target population shall meet all of the  
 33 following criteria:

34 (A) The person has a mental disorder as identified in the most  
 35 recent edition of the Diagnostic and Statistical Manual of Mental  
 36 Disorders, other than a substance use disorder or developmental  
 37 disorder or acquired traumatic brain injury pursuant to subdivision  
 38 (a) of Section 4354 unless that person also has a serious mental  
 39 disorder as defined in paragraph (2).

1 (B) (i) As a result of the mental disorder, the person has  
2 substantial functional impairments or symptoms, or a psychiatric  
3 history demonstrating that without treatment there is an imminent  
4 risk of decompensation to having substantial impairments or  
5 symptoms.

6 (ii) For the purposes of this part, “functional impairment” means  
7 either of the following:

8 (I) For an adult who is 18 to 59 years of age, inclusive, being  
9 *being* substantially impaired as the result of a mental disorder in  
10 independent living, social relationships, vocational skills, or  
11 physical condition.

12 ~~(II) For an adult who is 60 years of age or older, being~~  
13 ~~substantially impaired in major life activities because of a mental~~  
14 ~~disorder in at least two of the following areas on a continuing or~~  
15 ~~intermittent basis: (ia) independent living, (ib) social and family~~  
16 ~~relationships, (ic) vocational skills, employment, or leisure~~  
17 ~~activities, (id) basic living skills, including instrumental activities~~  
18 ~~of daily living, (ie) money management, (if) self-care, including~~  
19 ~~activities of daily living, or (ig) physical condition.~~

20 (C) As a result of a mental functional impairment and  
21 circumstances, the person is likely to become so disabled as to  
22 require public assistance, services, or entitlements.

23 (c) (1) *Adults who are 60 years of age or older who have a*  
24 *serious mental disorder.*

25 (2) *For purposes of this subdivision, “serious mental disorder”*  
26 *means a mental disorder that is severe in degree and persistent in*  
27 *duration, which may cause behavioral functioning which interferes*  
28 *substantially with the primary activities of daily living, and which*  
29 *may result in an inability to maintain stable adjustment and*  
30 *independent functioning without treatment, support, and*  
31 *rehabilitation for a long or indefinite period of time. Serious mental*  
32 *disorders include, but are not limited to, schizophrenia, bipolar*  
33 *disorder, post-traumatic stress disorder, as well as major affective*  
34 *disorders or other severely disabling mental disorders. This section*  
35 *shall not be construed to exclude persons with a serious mental*  
36 *disorder and a diagnosis of substance abuse, developmental*  
37 *disability, or other physical or mental disorder.*

38 (3) *Members of this target population shall meet all of the*  
39 *following criteria:*

1 (A) *The person has a mental disorder as identified in the most*  
 2 *recent edition of the Diagnostic and Statistical Manual of Mental*  
 3 *Disorders, other than a substance use disorder or developmental*  
 4 *disorder or acquired traumatic brain injury pursuant to subdivision*  
 5 *(a) of Section 4354 unless that person also has a serious mental*  
 6 *disorder as defined in paragraph (2).*

7 (B) (i) *As a result of the mental disorder, the person has*  
 8 *substantial functional impairments or symptoms, or a psychiatric*  
 9 *history demonstrating that without treatment there is an imminent*  
 10 *risk of decompensation to having substantial impairments or*  
 11 *symptoms.*

12 (ii) *For purposes of this subdivision, functional impairment*  
 13 *means being substantially impaired as a result of a mental disorder*  
 14 *in two of the following areas on a continuing or intermittent basis:*  
 15 *independent living; social and family relationships; vocational*  
 16 *skills, employment, or leisure activities; basic living skills,*  
 17 *including instrument activities of daily living; money management;*  
 18 *self-care capacities, including activities of daily living; or physical*  
 19 *condition.*

20 (C) *As a result of a mental functional impairment and*  
 21 *circumstances, the person is likely to become so disabled as to*  
 22 *require public assistance, services, or entitlements.*

23 ~~(4)~~

24 (d) *For the purpose of organizing outreach and treatment options,*  
 25 *to the extent resources are available, ~~this target population includes~~*  
 26 *the adult and older adult target populations, as defined in*  
 27 *subdivisions (b) and (c), include, but ~~is~~ are not limited to, persons*  
 28 *who are any of the following:*

29 ~~(A)~~

30 (1) *Homeless persons who are mentally ill.*

31 ~~(B)~~

32 (2) *Persons evaluated by appropriately licensed persons as*  
 33 *requiring care in acute treatment facilities including state hospitals,*  
 34 *acute inpatient facilities, institutes for mental disease, and crisis*  
 35 *residential programs.*

36 ~~(C)~~

37 (3) *Persons arrested or convicted of crimes.*

38 ~~(D)~~

39 (4) *Persons who require acute treatment as a result of a first*  
 40 *episode of mental illness with psychotic features.*

1     ~~(5)~~  
2     (e) California veterans in need of mental health services and  
3 who meet the existing eligibility requirements of this section, shall  
4 be provided services to the extent services are available to other  
5 adults *and older adults* pursuant to this section. Veterans who may  
6 be eligible for mental health services through the United States  
7 Department of Veterans Affairs should be advised of these services  
8 by the county and assisted in linking to those services.

9     ~~(A)~~  
10    (1) No eligible veteran shall be denied county mental health  
11 services based solely on his or her status as a veteran.

12    ~~(B)~~  
13    (2) Counties shall refer a veteran to the county veterans service  
14 officer, if any, to determine the veteran’s eligibility for, and the  
15 availability of, mental health services provided by the United States  
16 Department of Veterans Affairs or other federal health care  
17 provider.

18    ~~(C)~~  
19    (3) Counties should consider contracting with community-based  
20 veterans’ services agencies, where possible, to provide high-quality,  
21 veteran specific mental health services.

22    ~~(6) Adults 60 years of age or older shall be eligible if they~~  
23 ~~require brief treatment as a result of a natural disaster or severe~~  
24 ~~local emergency.~~

25    ~~(e)~~  
26    (f) Adults or older adults who require or are at risk of requiring  
27 acute psychiatric inpatient care, residential treatment, or outpatient  
28 crisis intervention because of a mental disorder with symptoms of  
29 psychosis, suicidality, or violence.

30    ~~(d)~~  
31    (g) Persons who need brief treatment as a result of a natural  
32 disaster or severe local emergency.

33    *SEC. 4. Section 5600.6 of the Welfare and Institutions Code*  
34 *is amended to read:*

35    5600.6. The minimum array of services for adults meeting the  
36 target population criteria established in ~~subdivision~~ *subdivisions*  
37 (b) *and (c)* of Section 5600.3 should include the following modes  
38 of service in every geographical area, to the extent resources are  
39 available:

40    (a) Precrisis and crisis services.

- 1 (b) Assessment.
- 2 (c) Medication education and management.
- 3 (d) Case management.
- 4 (e) Twenty-four-hour treatment services.
- 5 (f) Rehabilitation and support services.
- 6 (g) Vocational services.
- 7 (h) Residential services.

8 *SEC. 5. Section 5600.7 of the Welfare and Institutions Code*  
 9 *is amended to read:*

10 5600.7. The minimum array of services for older adults meeting  
 11 the target population criteria established in ~~subdivision~~ *subdivisions*  
 12 (b) and (c) of Section 5600.3 should include the following modes  
 13 of service in every geographical area, to the extent resources are  
 14 available:

- 15 (a) Precrisis and crisis services, including mobile services.
- 16 (b) Assessment, including mobile services.
- 17 (c) Medication education and management.
- 18 (d) Case management, including mobile services.
- 19 (e) Twenty-four-hour treatment services.
- 20 (f) Residential services.
- 21 (g) Rehabilitation and support services, including mobile  
 22 services.

23 *SEC. 6. Section 5813.5 of the Welfare and Institutions Code*  
 24 *is amended to read:*

25 5813.5. Subject to the availability of funds from the Mental  
 26 Health Services Fund, the State Department of Mental Health shall  
 27 distribute funds for the provision of services under Sections 5801,  
 28 5802 and 5806 to county mental health programs. Services shall  
 29 be available to adults and seniors with severe illnesses who meet  
 30 the eligibility criteria in subdivisions (b) ~~and (c)~~ *to (f), inclusive,*  
 31 of Section 5600.3 of the Welfare and Institutions Code. For  
 32 purposes of this act, seniors means older adult persons identified  
 33 in Part 3 (commencing with Section 5800) of this division.

34 (a) Funding shall be provided at sufficient levels to ensure that  
 35 counties can provide each adult and senior served pursuant to this  
 36 part with the medically necessary mental health services,  
 37 medications and supportive services set forth in the applicable  
 38 treatment plan.

39 (b) The funding shall only cover the portions of those costs of  
 40 services that cannot be paid for with other funds including other

1 mental health funds, public and private insurance, and other local,  
2 state and federal funds.

3 (c) Each county mental health programs plan shall provide for  
4 services in accordance with the system of care for adults and  
5 seniors who meet the eligibility criteria in subdivisions (b) ~~and (c)~~  
6 *to (f), inclusive*, of Section 5600.3.

7 (d) Planning for services shall be consistent with the philosophy,  
8 principles, and practices of the Recovery Vision for mental health  
9 consumers:

10 (1) To promote concepts key to the recovery for individuals  
11 who have mental illness: hope, personal empowerment, respect,  
12 social connections, self-responsibility, and self-determination.

13 (2) To promote consumer-operated services as a way to support  
14 recovery.

15 (3) To reflect the cultural, ethnic and racial diversity of mental  
16 health consumers.

17 (4) To plan for each consumer's individual needs.

18 (e) The plan for each county mental health program shall  
19 indicate, subject to the availability of funds as determined by Part  
20 4.5 (commencing with Section 5890) of this division, and other  
21 funds available for mental health services, adults and seniors with  
22 a severe mental illness being served by this program are either  
23 receiving services from this program or have a mental illness that  
24 is not sufficiently severe to require the level of services required  
25 of this program.

26 (f) Each county plan and annual update pursuant to Section  
27 5847 shall consider ways to provide services similar to those  
28 established pursuant to the Mentally Ill Offender Crime Reduction  
29 Grant Program. Funds shall not be used to pay for persons  
30 incarcerated in state prison or parolees from state prisons.

31 (g) The department shall contract for services with county  
32 mental health programs pursuant to Section 5897. After the  
33 effective date of this section the term grants referred to in Sections  
34 5814 and 5814.5 shall refer to such contracts.

35 *SEC. 7. Section 5814 of the Welfare and Institutions Code is*  
36 *amended to read:*

37 5814. (a) (1) This part shall be implemented only to the extent  
38 that funds are appropriated for purposes of this part. To the extent  
39 that funds are made available, the first priority shall go to maintain  
40 funding for the existing programs that meet adult system of care

1 contract goals. The next priority for funding shall be given to  
2 counties with a high incidence of persons who are severely  
3 mentally ill and homeless or at risk of homelessness, and meet the  
4 criteria developed pursuant to paragraphs (3) and (4).

5 (2) The director shall establish a methodology for awarding  
6 grants under this part consistent with the legislative intent  
7 expressed in Section 5802, and in consultation with the advisory  
8 committee established in this subdivision.

9 (3) (A) The director shall establish an advisory committee for  
10 the purpose of providing advice regarding the development of  
11 criteria for the award of grants, and the identification of specific  
12 performance measures for evaluating the effectiveness of grants.  
13 The committee shall review evaluation reports and make findings  
14 on evidence-based best practices and recommendations for grant  
15 conditions. At not less than one meeting annually, the advisory  
16 committee shall provide to the director written comments on the  
17 performance of each of the county programs. Upon request by the  
18 department, each participating county that is the subject of a  
19 comment shall provide a written response to the comment. The  
20 department shall comment on each of these responses at a  
21 subsequent meeting.

22 (B) The committee shall include, but not be limited to,  
23 representatives from state, county, and community veterans'  
24 services and disabled veterans outreach programs, supportive  
25 housing and other housing assistance programs, law enforcement,  
26 county mental health and private providers of local mental health  
27 services and mental health outreach services, the Board of  
28 Corrections, the State Department of Alcohol and Drug Programs,  
29 local substance abuse services providers, the Department of  
30 Rehabilitation, providers of local employment services, the State  
31 Department of Social Services, the Department of Housing and  
32 Community Development, a service provider to transition youth,  
33 the United Advocates for Children of California, the California  
34 Mental Health Advocates for Children and Youth, the Mental  
35 Health Association of California, the California Alliance for the  
36 Mentally Ill, the California Network of Mental Health Clients, the  
37 Mental Health Planning Council, and other appropriate entities.

38 (4) The criteria for the award of grants shall include, but not be  
39 limited to, all of the following:

1 (A) A description of a comprehensive strategic plan for  
2 providing outreach, prevention, intervention, and evaluation in a  
3 cost appropriate manner corresponding to the criteria specified in  
4 subdivision (c).

5 (B) A description of the local population to be served, ability  
6 to administer an effective service program, and the degree to which  
7 local agencies and advocates will support and collaborate with  
8 program efforts.

9 (C) A description of efforts to maximize the use of other state,  
10 federal, and local funds or services that can support and enhance  
11 the effectiveness of these programs.

12 (5) In order to reduce the cost of providing supportive housing  
13 for clients, counties that receive a grant pursuant to this part after  
14 January 1, 2004, shall enter into contracts with sponsors of  
15 supportive housing projects to the greatest extent possible.  
16 Participating counties are encouraged to commit a portion of their  
17 grants to rental assistance for a specified number of housing units  
18 in exchange for the counties' clients having the right of first refusal  
19 to rent the assisted units.

20 (b) In each year in which additional funding is provided by the  
21 annual Budget Act the department shall establish programs that  
22 offer individual counties sufficient funds to comprehensively serve  
23 severely mentally ill adults who are homeless, recently released  
24 from a county jail or the state prison, or others who are untreated,  
25 unstable, and at significant risk of incarceration or homelessness  
26 unless treatment is provided to them and who are severely mentally  
27 ill adults. For purposes of this subdivision, "severely mentally ill  
28 adults" are those individuals described in ~~subdivision (b)~~  
29 *subdivisions (b) and (c)* of Section 5600.3. In consultation with  
30 the advisory committee established pursuant to paragraph (3) of  
31 subdivision (a), the department shall report to the Legislature on  
32 or before May 1 of each year in which additional funding is  
33 provided, and shall evaluate, at a minimum, the effectiveness of  
34 the strategies in providing successful outreach and reducing  
35 homelessness, involvement with local law enforcement, and other  
36 measures identified by the department. The evaluation shall include  
37 for each program funded in the current fiscal year as much of the  
38 following as available information permits:

39 (1) The number of persons served, and of those, the number  
40 who receive extensive community mental health services.

1 (2) The number of persons who are able to maintain housing,  
2 including the type of housing and whether it is emergency,  
3 transitional, or permanent housing, as defined by the department.

4 (3) (A) The amount of grant funding spent on each type of  
5 housing.

6 (B) Other local, state, or federal funds or programs used to house  
7 clients.

8 (4) The number of persons with contacts with local law  
9 enforcement and the extent to which local and state incarceration  
10 has been reduced or avoided.

11 (5) The number of persons participating in employment service  
12 programs including competitive employment.

13 (6) The number of persons contacted in outreach efforts who  
14 appear to be severely mentally ill, as described in Section 5600.3,  
15 who have refused treatment after completion of all applicable  
16 outreach measures.

17 (7) The amount of hospitalization that has been reduced or  
18 avoided.

19 (8) The extent to which veterans identified through these  
20 programs' outreach are receiving federally funded veterans'  
21 services for which they are eligible.

22 (9) The extent to which programs funded for three or more years  
23 are making a measurable and significant difference on the street,  
24 in hospitals, and in jails, as compared to other counties or as  
25 compared to those counties in previous years.

26 (10) For those who have been enrolled in this program for at  
27 least two years and who were enrolled in Medi-Cal prior to, and  
28 at the time they were enrolled in, this program, a comparison of  
29 their Medi-Cal hospitalizations and other Medi-Cal costs for the  
30 two years prior to enrollment and the two years after enrollment  
31 in this program.

32 (11) The number of persons served who were and were not  
33 receiving Medi-Cal benefits in the 12-month period prior to  
34 enrollment and, to the extent possible, the number of emergency  
35 room visits and other medical costs for those not enrolled in  
36 Medi-Cal in the prior 12-month period.

37 (c) To the extent that state savings associated with providing  
38 integrated services for the mentally ill are quantified, it is the intent  
39 of the Legislature to capture those savings in order to provide  
40 integrated services to additional adults.

1 (d) Each project shall include outreach and service grants in  
2 accordance with a contract between the state and approved counties  
3 that reflects the number of anticipated contacts with people who  
4 are homeless or at risk of homelessness, and the number of those  
5 who are severely mentally ill and who are likely to be successfully  
6 referred for treatment and will remain in treatment as necessary.

7 (e) All counties that receive funding shall be subject to specific  
8 terms and conditions of oversight and training which shall be  
9 developed by the department, in consultation with the advisory  
10 committee.

11 (f) (1) As used in this part, “receiving extensive mental health  
12 services” means having a personal services coordinator, as  
13 described in subdivision (b) of Section 5806, and having an  
14 individual personal service plan, as described in subdivision (c)  
15 of Section 5806.

16 (2) The funding provided pursuant to this part shall be sufficient  
17 to provide mental health services, medically necessary medications  
18 to treat severe mental illnesses, alcohol and drug services,  
19 transportation, supportive housing and other housing assistance,  
20 vocational rehabilitation and supported employment services,  
21 money management assistance for accessing other health care and  
22 obtaining federal income and housing support, accessing veterans’  
23 services, stipends, and other incentives to attract and retain  
24 sufficient numbers of qualified professionals as necessary to  
25 provide the necessary levels of these services. These grants shall,  
26 however, pay for only that portion of the costs of those services  
27 not otherwise provided by federal funds or other state funds.

28 (3) Methods used by counties to contract for services pursuant  
29 to paragraph (2) shall promote prompt and flexible use of funds,  
30 consistent with the scope of services for which the county has  
31 contracted with each provider.

32 (g) Contracts awarded pursuant to this part shall be exempt from  
33 the Public Contract Code and the state administrative manual and  
34 shall not be subject to the approval of the Department of General  
35 Services.

36 (h) Notwithstanding any other provision of law, funds awarded  
37 to counties pursuant to this part and Part 4 (commencing with  
38 Section 5850) shall not require a local match in funds.

1     ~~SEC. 2.~~

2     *SEC. 8.* If the Commission on State Mandates determines that  
3 this act contains costs mandated by the state, reimbursement to  
4 local agencies and school districts for those costs shall be made  
5 pursuant to Part 7 (commencing with Section 17500) of Division  
6 4 of Title 2 of the Government Code.

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