

ASSEMBLY BILL

No. 1194

Introduced by Assembly Member Eggman

February 27, 2015

An act to amend Section 5150 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1194, as introduced, Eggman. Mental health: involuntary commitment.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of persons with specified mental disorders for the protection of the persons so committed. Under the act, when a person, as a result of mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, he or she may, upon probable cause, be taken into custody by a peace officer, member of the attending staff of an evaluation facility, designated members of a mobile crisis team, or other designated professional person, and placed in a facility designated by the county and approved by the State Department of Social Services as a facility for 72-hour treatment and evaluation. Existing law requires, when determining if probable cause exists to take a person into custody, or cause a person to be taken into custody pursuant to the provisions described above, any person who is authorized to take or cause that person to be taken into custody to consider available relevant information about the historical course of the person's mental disorder, as specified, if the authorized person determines that information has a reasonable bearing on the determination described above.

This bill would provide that for purposes of determining whether a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, danger constitutes a present risk of harm that requires consideration of the historical course of a person’s mental health disorder and shall not be limited to imminent or immediate risk of harm to others or to himself or herself.

Existing law requires the admitting facility to require an application in writing stating the circumstances under which the person’s condition was called to the attention of those persons authorized to make the determination of probable cause, and stating that he or she has probable cause, as specified.

The bill would also require the application to record whether the historical course of a person’s mental disorder was considered in the determination of probable cause.

By imposing additional duties on local officials, the bill would impose 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: majority. 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 5150 of the Welfare and Institutions Code
2 is amended to read:
3 5150. (a) When a person, as a result of a mental health
4 disorder, is a danger to others, or to himself or herself, or gravely
5 disabled, a peace officer, professional person in charge of a facility
6 designated by the county for evaluation and treatment, member of
7 the attending staff, as defined by regulation, of a facility designated
8 by the county for evaluation and treatment, designated members
9 of a mobile crisis team, or professional person designated by the
10 county may, upon probable cause, take, or cause to be taken, the
11 person into custody for a period of up to 72 hours for assessment,
12 evaluation, and crisis intervention, or placement for evaluation

1 and treatment in a facility designated by the county for evaluation
2 and treatment and approved by the State Department of Health
3 Care Services. At a minimum, assessment, as defined in Section
4 5150.4, and evaluation, as defined in subdivision (a) of Section
5 5008, shall be conducted and provided on an ongoing basis. Crisis
6 intervention, as defined in subdivision (e) of Section 5008, may
7 be provided concurrently with assessment, evaluation, or any other
8 service.

9 *(b) For purposes of determining, under this section, whether a*
10 *person, as a result of a mental health disorder, is a danger to*
11 *others, or a danger to himself or herself, danger constitutes a*
12 *present risk of harm that requires consideration of the historical*
13 *course of a person's mental health disorder pursuant to Section*
14 *5150.05, and shall not be limited to imminent or immediate risk*
15 *of harm to others or to himself or herself.*

16 ~~(b)~~

17 (c) The professional person in charge of a facility designated
18 by the county for evaluation and treatment, member of the
19 attending staff, or professional person designated by the county
20 shall assess the person to determine whether he or she can be
21 properly served without being detained. If in the judgment of the
22 professional person in charge of the facility designated by the
23 county for evaluation and treatment, member of the attending staff,
24 or professional person designated by the county, the person can
25 be properly served without being detained, he or she shall be
26 provided evaluation, crisis intervention, or other inpatient or
27 outpatient services on a voluntary basis. Nothing in this subdivision
28 shall be interpreted to prevent a peace officer from delivering
29 individuals to a designated facility for assessment under this
30 section. Furthermore, the assessment requirement of this
31 subdivision shall not be interpreted to require peace officers to
32 perform any additional duties other than those specified in Sections
33 5150.1 and 5150.2.

34 ~~(e)~~

35 (d) Whenever a person is evaluated by a professional person in
36 charge of a facility designated by the county for evaluation or
37 treatment, member of the attending staff, or professional person
38 designated by the county and is found to be in need of mental
39 health services, but is not admitted to the facility, all available

1 alternative services provided pursuant to subdivision (b) shall be
2 offered as determined by the county mental health director.

3 ~~(d)~~

4 (e) If, in the judgment of the professional person in charge of
5 the facility designated by the county for evaluation and treatment,
6 member of the attending staff, or the professional person designated
7 by the county, the person cannot be properly served without being
8 detained, the admitting facility shall require an application in
9 writing stating the circumstances under which the person's
10 condition was called to the attention of the peace officer,
11 professional person in charge of the facility designated by the
12 county for evaluation and treatment, member of the attending staff,
13 or professional person designated by the county, and stating that
14 the peace officer, professional person in charge of the facility
15 designated by the county for evaluation and treatment, member of
16 the attending staff, or professional person designated by the county
17 has probable cause to believe that the person is, as a result of a
18 mental health disorder, a danger to others, or to himself or herself,
19 or gravely disabled. *The application shall also record whether the*
20 *historical course of the person's mental disorder was considered*
21 *in the determination, pursuant to Section 5150.05.* If the probable
22 cause is based on the statement of a person other than the peace
23 officer, professional person in charge of the facility designated by
24 the county for evaluation and treatment, member of the attending
25 staff, or professional person designated by the county, the person
26 shall be liable in a civil action for intentionally giving a statement
27 ~~which~~ *that* he or she knows to be false.

28 ~~(e)~~

29 (f) At the time a person is taken into custody for evaluation, or
30 within a reasonable time thereafter, unless a responsible relative
31 or the guardian or conservator of the person is in possession of the
32 person's personal property, the person taking him or her into
33 custody shall take reasonable precautions to preserve and safeguard
34 the personal property in the possession of or on the premises
35 occupied by the person. The person taking him or her into custody
36 shall then furnish to the court a report generally describing the
37 person's property so preserved and safeguarded and its disposition,
38 in substantially the form set forth in Section 5211, except that if
39 a responsible relative or the guardian or conservator of the person
40 is in possession of the person's property, the report shall include

1 only the name of the relative or guardian or conservator and the
 2 location of the property, whereupon responsibility of the person
 3 taking him or her into custody for that property shall terminate.
 4 As used in this section, “responsible relative” includes the spouse,
 5 parent, adult child, domestic partner, grandparent, grandchild, or
 6 adult brother or sister of the person.

7 ~~(f)~~

8 (g) (1) Each person, at the time he or she is first taken into
 9 custody under this section, shall be provided, by the person who
 10 takes him or her into custody, the following information orally in
 11 a language or modality accessible to the person. If the person
 12 cannot understand an oral advisement, the information shall be
 13 provided in writing. The information shall be in substantially the
 14 following form:

15

16 My name is _____ .

17 I am a _____ .

18 (peace officer/mental health professional)

19 with _____ .

20 (name of agency)

21 You are not under criminal arrest, but I am taking you for an examination by
 22 mental health professionals at _____ .

23 _____

24 (name of facility)

25 You will be told your rights by the mental health staff.

26

27 (2) If taken into custody at his or her own residence, the person
 28 shall also be provided the following information:

29

30 You may bring a few personal items with you, which I will have
 31 to approve. Please inform me if you need assistance turning off
 32 any appliance or water. You may make a phone call and leave a
 33 note to tell your friends or family where you have been taken.

34

35 ~~(g)~~

36 (h) The designated facility shall keep, for each patient evaluated,
 37 a record of the advisement given pursuant to subdivision (f) which
 38 shall include all of the following:

39

(1) The name of the person detained for evaluation.

- 1 (2) The name and position of the peace officer or mental health
- 2 professional taking the person into custody.
- 3 (3) The date the advisement was completed.
- 4 (4) Whether the advisement was completed.
- 5 (5) The language or modality used to give the advisement.
- 6 (6) If the advisement was not completed, a statement of good
- 7 cause, as defined by regulations of the State Department of Health
- 8 Care Services.

9 ~~(h)~~

10 (i) (1) Each person admitted to a facility designated by the
 11 county for evaluation and treatment shall be given the following
 12 information by admission staff of the facility. The information
 13 shall be given orally and in writing and in a language or modality
 14 accessible to the person. The written information shall be available
 15 to the person in English and in the language that is the person's
 16 primary means of communication. Accommodations for other
 17 disabilities that may affect communication shall also be provided.
 18 The information shall be in substantially the following form:

19

20 My name is _____.

21 My position here is _____.

22 You are being placed into this psychiatric facility because it is our
 23 professional opinion that, as a result of a mental health disorder, you are likely
 24 to (check applicable):

- 25 Harm yourself.
- 26 Harm someone else.
- 27 Be unable to take care of your own food, clothing, and housing needs.

28 We believe this is true because

29

30 _____
 31 (list of the facts upon which the allegation of dangerous
 32 or gravely disabled due to mental health disorder is based, including pertinent
 33 facts arising from the admission interview).

34 You will be held for a period up to 72 hours. During the 72 hours you may
 35 also be transferred to another facility. You may request to be evaluated or
 36 treated at a facility of your choice. You may request to be evaluated or treated
 37 by a mental health professional of your choice. We cannot guarantee the facility
 38 or mental health professional you choose will be available, but we will honor
 39 your choice if we can.

40 During these 72 hours you will be evaluated by the facility staff, and you
 may be given treatment, including medications. It is possible for you to be

1 released before the end of the 72 hours. But if the staff decides that you need
2 continued treatment you can be held for a longer period of time. If you are
3 held longer than 72 hours, you have the right to a lawyer and a qualified
4 interpreter and a hearing before a judge. If you are unable to pay for the lawyer,
5 then one will be provided to you free of charge.

6 If you have questions about your legal rights, you may contact the county
7 Patients' Rights Advocate at _____
8 (phone number for the county Patients' Rights
9 _____ .
10 Advocacy office)

11 Your 72-hour period began _____ .
12 (date/time)

13
14 (2) If the notice is given in a county where weekends and
15 holidays are excluded from the 72-hour period, the patient shall
16 be informed of this fact.

17 (i)
18 (j) For each patient admitted for evaluation and treatment, the
19 facility shall keep with the patient's medical record a record of the
20 advisement given pursuant to subdivision ~~(h)~~; (i), which shall
21 include all of the following:

- 22 (1) The name of the person performing the advisement.
- 23 (2) The date of the advisement.
- 24 (3) Whether the advisement was completed.
- 25 (4) The language or modality used to communicate the
26 advisement.
- 27 (5) If the advisement was not completed, a statement of good
28 cause.

29 SEC. 2. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.