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Assembly Bill No. 2275**CHAPTER 960**

An act to amend Sections 5150, 5151, 5256, 5275, 5350, 5354, and 5585.20 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2275, Wood. 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 committed. Under the act, when a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled, the person may, upon probable cause, be taken into custody and placed in a facility designated by the county and approved by the State Department of Health Care Services for up to 72 hours for evaluation and treatment. If certain conditions are met after the 72-hour detention, the act authorizes the certification of the person for a 14-day maximum period of intensive treatment and then a 30-day maximum period of intensive treatment after the 14-day period. Existing law requires a certification review hearing to be held when a person is certified for a 14-day or 30-day intensive treatment detention, except as specified, and requires it to be within 4 days of the date on which the person is certified, but allows for a postponement for 48 hours or until the next regularly scheduled hearing date in specified smaller counties.

This bill would, among other things, specify that the 72-hour period of detention begins at the time when the person is first detained. The bill would remove the provisions for postponement of the certification review hearing. The bill, when a person has not been certified for 14-day intensive treatment and remains detained on a 72-hour hold, would require a certification review hearing to be held within 7 days of the date the person was initially detained and would require the person in charge of the facility where the person is detained to notify the detained person of specified rights. Because the bill would expand the population of persons who are entitled to a certification review hearing, it 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 the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 5150 of the Welfare and Institutions Code is amended to read:

5150. (a) When a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. The 72-hour period begins at the time when the person is first detained. At a minimum, assessment, as defined in Section 5150.4, and evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis. Crisis intervention, as defined in subdivision (e) of Section 5008, may be provided concurrently with assessment, evaluation, or any other service.

(b) When determining if a person should be taken into custody pursuant to subdivision (a), the individual making that determination shall apply the provisions of Section 5150.05, and shall not be limited to consideration of the danger of imminent harm.

(c) The professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county shall assess the person to determine whether the person can be properly served without being detained. If, in the judgment of the professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, the person can be properly served without being detained, the person shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis. This subdivision does not prevent a peace officer from delivering an individual to a designated facility for assessment under this section. Furthermore, the assessment requirement of this subdivision does not require a peace officer to perform any additional duties other than those specified in Sections 5150.1 and 5150.2.

(d) If a person is evaluated by a professional person in charge of a facility designated by the county for evaluation or treatment, member of the attending staff, or professional person designated by the county and is found to be in need of mental health services, but is not admitted to the facility, all available alternative services provided pursuant to subdivision (c) shall be offered, as determined by the county mental health director.

(e) If, in the judgment of the professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or the professional person designated by the county, the person cannot be properly served without being detained, the admitting facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, and stating that the peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county has probable cause to believe that the person is, as a result of a mental health disorder, a danger to others, or to themselves, or gravely disabled. The application shall also record whether the historical course of the person's mental disorder was considered in the determination, pursuant to Section 5150.05. If the probable cause is based on the statement of a person other than the peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, the person shall be liable in a civil action for intentionally giving a statement that the person knows to be false. A copy of the application shall be treated as the original.

(f) At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person's personal property, the person taking them into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person. The person taking them into custody shall then furnish to the court a report generally describing the person's property so preserved and safeguarded and its disposition, in substantially the form set forth in Section 5211, except that if a responsible relative or the guardian or conservator of the person is in possession of the person's property, the report shall include only the name of the relative or guardian or conservator and the location of the property, whereupon responsibility of the person taking them into custody for that property shall terminate. As used in this section,

"responsible relative" includes the spouse, parent, adult child, domestic partner, grandparent, grandchild, or adult brother or sister of the person.

(g) (1) Each person, at the time the person is first taken into custody under this section, shall be provided, by the person who takes them into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing. The information shall be in substantially the following form:

My name is .

I am a _____ (peace officer/mental health professional)

_____ with _____ (name of agency) _____.

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

_____ (name of facility) _____

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

(2) If taken into custody at the person's own residence, the person shall also be provided the following information:

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

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

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

(2) The name and position of the peace officer or mental health professional taking the person into custody.

(3) The date the advisement was completed.

(4) Whether the advisement was completed.

(5) The language or modality used to give the advisement.

(6) If the advisement was not completed, a statement of good cause, as defined by regulations of the State Department of Health Care Services.

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

My name is .

My position here is .

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

☐ Harm yourself.

☐ Harm someone else.

☐ Be unable to take care of your own food, clothing, and housing needs.

We believe this is true because

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

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

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

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

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

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

(j) For each person admitted for evaluation and treatment, the facility shall keep with the person's medical record a record of the advisement given pursuant to subdivision (i), which shall include all of the following:

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

(k) A facility to which a person who is involuntarily detained pursuant to this section is transported shall notify the county patients' rights advocate, as defined in Section 5500, if a person has not been released within 72 hours of the involuntary detention.

SEC. 2. Section 5151 of the Welfare and Institutions Code is amended to read:

5151. (a) If the facility designated by the county for evaluation and treatment admits the person, it may detain the person for evaluation and treatment for a period not to exceed 72 hours from the time that the person was first detained pursuant to Section 5150. Saturdays, Sundays, and holidays may be excluded from the period if the State Department of Health Care Services certifies for each facility that evaluation and treatment services cannot reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility can reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

(b) Prior to admitting a person to the facility for treatment and evaluation pursuant to Section 5150, the professional person in charge of the facility or a designee shall assess the individual to determine the appropriateness of the involuntary detention. This assessment shall be made face-to-face either in person or by synchronous interaction through a mode of telehealth that utilizes both audio and visual components.

SEC. 3. Section 5256 of the Welfare and Institutions Code is amended to read:

5256. (a) When a person is certified for intensive treatment pursuant to Section 5250 or 5270.15, a certification review hearing shall be held unless judicial review has been requested as provided in Sections 5275 and 5276.

The certification review hearing shall be within four days of the date on which the person is certified for a period of intensive treatment unless postponed by request of the person or their attorney or advocate.

(b) When a person has not been certified for intensive treatment pursuant to Section 5250 and remains detained pursuant to Section 5150, a certification review hearing shall be held within seven days of the date the person was initially detained pursuant to Section 5150, unless judicial review has been requested as provided in Sections 5275 and 5276. The professional person in charge of the facility designated by the county for evaluation and treatment, or an individual designated by the county if the person is not in a designated facility, shall inform the detained person of their rights with respect to the hearing, such as the right to the assistance of another person, including the county patients' rights advocate, to prepare for the hearing, shall answer questions and address concerns regarding involuntary detention, and shall inform them of their rights pursuant to Section 5254.1. An attorney or county patients' rights advocate shall meet with the person to discuss the commitment process and to assist the person in preparing for the certification review hearing or to answer questions or otherwise assist the person as appropriate. The certification review hearing shall be conducted in accordance with Sections 5256.1, 5256.2, 5256.3, 5256.4, 5256.5, 5256.6, and 5256.7 and the detained person shall be considered a person certified.

SEC. 4. Section 5275 of the Welfare and Institutions Code is amended to read:

5275. Every person detained under this part shall have a right to a hearing by writ of habeas corpus for their release after they or any person acting on their behalf has made a request for release to either (a) the person delivering the copy of the notice of certification to the person certified at the time of the delivery, or (b) to any member of the treatment staff of the facility providing intensive treatment, at any time during treatment pursuant to this part.

Any person delivering a copy of the certification notice or any member of the treatment staff to whom a request for release is made shall promptly provide the person making the request for their signature or mark a copy of the form set forth below. The person delivering the copy of the certification notice or the member of the treatment staff, as the case may be, shall fill in their own name and the date, and, if the person signs by mark, shall fill in the person's name, and shall then deliver the completed copy to the professional person in charge of the intensive treatment facility, or their designee, notifying them of the request. As soon as possible, the person notified shall inform the superior court for the county in which the facility is located of the request for release.

Any person who intentionally violates this section is guilty of a misdemeanor.

The form for a request for release shall be substantially as follows:

(Name of the facility)____ day of ____ 19____

I, ____ (member of the treatment staff, or person delivering the copy of the certification notice), have today received a request for the release of ____ (name of patient) from the undersigned patient on the patient's own behalf or from the undersigned person on behalf of the patient.

_____ Signature or mark of patient making request for release

_____ Signature or mark of person making request on behalf of patient

SEC. 5. Section 5350 of the Welfare and Institutions Code is amended to read:

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

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

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

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

(2) In appointing a conservator, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the court shall consider the purposes of protection of the public and the treatment of the conservatee. Notwithstanding any other provision of this section, the court shall not appoint the proposed conservator if the court determines that appointment of the proposed conservator will not result in adequate protection of the public.

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

(d) (1) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue of whether the person is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, the demand shall constitute a waiver of the hearing.

(2) Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee. Failure to commence the trial within that period of time is grounds for dismissal of the conservatorship proceedings.

(3) This right shall also apply in subsequent proceedings to reestablish conservatorship.

(e) (1) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

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

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the court to publicly find, that no one is willing or able to assist a person with a mental health disorder in providing for the person's basic needs for food, clothing, or shelter.

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

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

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

(h) As otherwise provided in this chapter.

SEC. 6. Section 5354 of the Welfare and Institutions Code is amended to read:

5354. (a) The officer providing conservatorship investigation shall investigate all available alternatives to conservatorship and shall recommend conservatorship to the court only if no suitable alternatives are available. This officer shall render to the court a written report of investigation prior to the hearing. The report to the court shall be comprehensive and shall contain all relevant aspects of the person's medical, psychological, financial, family, vocational, and social condition, and information obtained from the person's family members, close friends, social worker, or principal therapist. The report shall also contain all available information concerning the

person's real and personal property. The facilities providing intensive treatment or comprehensive evaluation shall disclose any records or information which may facilitate the investigation. If the officer providing conservatorship investigation recommends either for or against conservatorship, the officer shall set forth all alternatives available, including all less restrictive alternatives. A copy of the report shall be transmitted to the individual who originally recommended conservatorship, to the person or agency, if any, recommended to serve as conservator, and to the person recommended for conservatorship. The court may receive the report in evidence and may read and consider the contents thereof in rendering its judgment.

(b) Notwithstanding Section 5328, when a court with jurisdiction over a person in a criminal case orders an evaluation of the person's mental condition pursuant to Section 5200, and that evaluation leads to a conservatorship investigation, the officer providing the conservatorship investigation shall serve a copy of the report required under subdivision (a) upon the defendant or the defendant's counsel. Upon the prior written request of the defendant or the defendant's counsel, the officer providing the conservatorship investigation shall also submit a copy of the report to the court hearing the criminal case, the district attorney, and the county probation department. The conservatorship investigation report and the information contained in that report, shall be kept confidential and shall not be further disclosed to anyone without the prior written consent of the defendant. After disposition of the criminal case, the court shall place all copies of the report in a sealed file, except as follows:

- (1) The defendant and the defendant's counsel may retain their copy.
- (2) If the defendant is placed on probation status, the county probation department may retain a copy of the report for the purpose of supervision of the defendant until the probation is terminated, at which time the probation department shall return its copy of the report to the court for placement into the sealed file.

SEC. 7. Section 5585.20 of the Welfare and Institutions Code is amended to read:

5585.20. This part shall apply only to the initial 72 hours of mental health evaluation and treatment provided to a minor. Notwithstanding the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)), unless the context otherwise requires, the definitions and procedures contained in this part shall, for the initial 72 hours of evaluation and treatment, govern the construction of state law governing the civil commitment of minors for involuntary treatment. To the extent that this part conflicts with any other law, it is the intent of the Legislature that this part shall apply. Evaluation and treatment of a minor beyond the initial 72 hours shall be pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

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