

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 46

Introduced by Assembly Member Carrillo

December 3, 2018

An act to amend Section 4005 of the Harbors and Navigation Code, to amend Sections 1026, 1367, 2625, 2960, 2962, 2966, 2968, 2970, 2972, 2974, 2978, 4011.6, 4497, 4497.10, and 6102 of the Penal Code, to amend Section 6100.5 of the Probate Code, to amend Section 253 of the Revenue and Taxation Code, and to amend Sections 4242, 5213, and 5300 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 46, as amended, Carrillo. Individuals with mental illness: change of term.

Existing law refers to ~~an insane or mentally defective person~~ *persons with mental disorders and mental defects* in provisions relating to, among other things, criminal proceedings, correctional facilities, and property tax exemptions.

This bill would state the intent of the Legislature to enact legislation to replace *those* derogatory terms, including, but not limited to, “insane” and “mentally defective,” *terms* with more culturally sensitive terms when referring to individuals with mental illness. *The bill would make those changes throughout various provisions of law.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation to replace derogatory terms, including, but not limited
3 to, ~~“insane” and “mentally defective,”~~ *“mental disorder” and*
4 *“mental defect”* with more culturally sensitive terms when referring
5 to individuals with mental illness.

6 *SEC. 2. Section 4005 of the Harbors and Navigation Code is*
7 *amended to read:*

8 4005. If the owner of the land is a nonresident of the ~~county~~
9 *county*, the sheriff may make service by leaving a copy of the
10 notice of application with the occupant, or agent of the owner. If
11 there is no occupant, or agent of the owner, the sheriff may place
12 a copy in the post office addressed to the owner ~~thirty~~ 30 days
13 prior to the day set for the hearing. If the owner is a minor, ~~insane,~~
14 ~~mentally incapacitated,~~ *has a mental health disorder, lacks mental*
15 *capacity, or is a decedent, notice shall be served on his the owner’s*
16 *guardian, administrator, or other legal representative.*

17 *SEC. 3. Section 1026 of the Penal Code is amended to read:*

18 1026. (a) If a defendant pleads not guilty by reason of insanity,
19 and also joins with it another plea or pleas, the defendant shall first
20 be tried as if only the other plea or pleas had been entered, and in
21 that trial the defendant shall be conclusively presumed to have
22 been sane at the time the offense is alleged to have been committed.
23 If the jury finds the defendant guilty, or if the defendant pleads
24 only not guilty by reason of insanity, the question whether the
25 defendant was sane or insane at the time the offense was committed
26 shall be promptly tried, either before the same jury or before a new
27 jury in the discretion of the court. In that trial, the jury shall return
28 a verdict either that the defendant was sane at the time the offense
29 was committed or was insane at the time the offense was
30 committed. If the verdict or finding is that the defendant was sane
31 at the time the offense was committed, the court shall sentence the
32 defendant as provided by law. If the verdict or finding is that the
33 defendant was insane at the time the offense was committed, the
34 court, unless it appears to the court that the sanity of the defendant
35 has been recovered fully, shall direct that the defendant be
36 committed to the State Department of State Hospitals for the care
37 and treatment of ~~the mentally disordered~~ *persons with mental*
38 *health disorders* or any other appropriate public or private

1 treatment facility approved by the community program director,
2 or the court may order the defendant placed on outpatient status
3 pursuant to Title 15 (commencing with Section 1600) of Part 2.

4 (b) Prior to making the order directing that the defendant be
5 committed to the State Department of State Hospitals or other
6 treatment facility or placed on outpatient status, the court shall
7 order the community program director or a designee to evaluate
8 the defendant and to submit to the court within 15 judicial days of
9 the order a written recommendation as to whether the defendant
10 should be placed on outpatient status or committed to the State
11 Department of State Hospitals or other treatment facility. A person
12 shall not be admitted to a state hospital or other treatment facility
13 or placed on outpatient status under this section without having
14 been evaluated by the community program director or a designee.
15 If, however, it appears to the court that the sanity of the defendant
16 has been recovered fully, the defendant shall be remanded to the
17 custody of the sheriff until the issue of sanity has been finally
18 determined in the manner prescribed by law. A defendant
19 committed to a state hospital or other treatment facility or placed
20 on outpatient status pursuant to Title 15 (commencing with Section
21 1600) of Part 2 shall not be released from confinement, parole, or
22 outpatient status unless and until the court that committed the
23 person, after notice and hearing, finds and determines that the
24 person's sanity has been restored, or meets the criteria for release
25 pursuant to Section 4146 of the Welfare and Institutions Code.
26 This section does not prohibit the transfer of the patient from one
27 state hospital to any other state hospital by proper authority. This
28 section does not prohibit the transfer of the patient to a hospital in
29 another state in the manner provided in Section 4119 of the Welfare
30 and Institutions Code.

31 (c) If the defendant is committed or transferred to the State
32 Department of State Hospitals pursuant to this section, the court
33 may, upon receiving the written recommendation of the medical
34 director of the state hospital and the community program director
35 that the defendant be transferred to a public or private treatment
36 facility approved by the community program director, order the
37 defendant transferred to that facility. If the defendant is committed
38 or transferred to a public or private treatment facility approved by
39 the community program director, the court may, upon receiving
40 the written recommendation of the community program director,

1 order the defendant transferred to the State Department of State
 2 Hospitals or to another public or private treatment facility approved
 3 by the community program director. If either the defendant or the
 4 prosecuting attorney chooses to contest either kind of order of
 5 transfer, a petition may be filed in the court requesting a hearing,
 6 which shall be held if the court determines that sufficient grounds
 7 exist. At that hearing, the prosecuting attorney or the defendant
 8 may present evidence bearing on the order of transfer. The court
 9 shall use the same procedures and standards of proof as used in
 10 conducting probation revocation hearings pursuant to Section
 11 1203.2.

12 (d) Prior to making an order for transfer under this section, the
 13 court shall notify the defendant, the attorney of record for the
 14 defendant, the prosecuting attorney, and the community program
 15 director or a designee.

16 (e) ~~When~~ *If* the court, after considering the placement
 17 recommendation of the community program director required in
 18 subdivision (b), orders that the defendant be committed to the State
 19 Department of State Hospitals or other public or private treatment
 20 facility, the court shall provide copies of the following documents
 21 prior to the admission of the defendant to the State Department of
 22 State Hospitals or other treatment facility where the defendant is
 23 to be committed:

24 (1) The commitment order, including a specification of the
 25 charges.

26 (2) A computation or statement setting forth the maximum term
 27 of commitment in accordance with Section 1026.5.

28 (3) A computation or statement setting forth the amount of credit
 29 for time served, if any, to be deducted from the maximum term of
 30 commitment.

31 (4) State summary criminal history information.

32 (5) Any arrest reports prepared by the police department or other
 33 law enforcement agency.

34 (6) Any court-ordered psychiatric examination or evaluation
 35 reports.

36 (7) The community program director's placement
 37 recommendation report.

38 (8) Any medical records.

39 (f) If the defendant is confined in a state hospital or other
 40 treatment facility as an inpatient, the medical director of the facility

1 shall, at six-month intervals, submit a report in writing to the court
2 and the community program director of the county of commitment,
3 or a designee, setting forth the status and progress of the defendant.
4 The court shall transmit copies of these reports to the prosecutor
5 and defense counsel.

6 (g) For purposes of this section and Sections 1026.1 to 1026.6,
7 inclusive, “community program director” means the person,
8 agency, or entity designated by the State Department of State
9 Hospitals pursuant to Section 1605 of this code and Section 4360
10 of the Welfare and Institutions Code.

11 *SEC. 4. Section 1367 of the Penal Code is amended to read:*

12 1367. (a) A person ~~cannot~~ shall not be tried or adjudged to
13 punishment or have ~~his or her~~ their probation, mandatory
14 supervision, postrelease community supervision, or parole revoked
15 while that person is mentally incompetent. A defendant is mentally
16 incompetent for purposes of this chapter if, as a result of a mental
17 health disorder or developmental disability, the defendant is unable
18 to understand the nature of the criminal proceedings or to assist
19 counsel in the conduct of a defense in a rational manner.

20 (b) Section 1370 ~~shall apply~~ applies to a person who is charged
21 with a felony or alleged to have violated the terms of probation
22 for a felony or mandatory supervision and is incompetent as a
23 result of a mental health disorder. Section 1370.01 ~~shall apply~~
24 applies to a person who is charged with a misdemeanor or
25 misdemeanors only, or a violation of formal or informal probation
26 for a misdemeanor, and the judge finds reason to believe that the
27 defendant ~~is mentally disordered,~~ has a mental health disorder,
28 and may, as a result of the mental health disorder, be incompetent
29 to stand trial. Section 1370.1 ~~shall apply~~ applies to a person who
30 is incompetent as a result of a developmental disability and ~~shall~~
31 apply applies to a person who is incompetent as a result of a mental
32 health disorder, but ~~is also developmentally disabled.~~ has a
33 developmental disability. Section 1370.02 ~~shall apply~~ applies to
34 a person alleged to have violated the terms of ~~his or her~~ the
35 person’s postrelease community supervision or parole.

36 *SEC. 5. Section 2625 of the Penal Code is amended to read:*

37 2625. (a) For the purposes of this section only, the term
38 “prisoner” includes any individual in custody in a state prison, the
39 California Rehabilitation Center, or a county jail, or who is a ward
40 of the Department of the Youth Authority or who, upon a verdict

1 or finding that the individual was insane at the time of committing
2 an offense, or mentally incompetent to be tried or adjudged to
3 punishment, is confined in a state hospital for the care and
4 treatment of ~~the mentally disordered~~ *persons with mental health*
5 *disorders* or in any other public or private treatment facility.

6 (b) In ~~any~~ *a* proceeding brought under Part 4 (commencing with
7 Section 7800) of Division 12 of the Family Code, and Section
8 366.26 of the Welfare and Institutions Code, ~~where if~~ the
9 proceeding seeks to terminate the parental rights of ~~any~~ *a* prisoner,
10 or ~~any~~ *a* proceeding brought under Section 300 of the Welfare and
11 Institutions Code, ~~where if~~ the proceeding seeks to adjudicate the
12 child of a prisoner a dependent child of the court, the superior court
13 of the county in which the proceeding is pending, or a judge
14 thereof, shall order notice of any court proceeding regarding the
15 proceeding transmitted to the prisoner.

16 (c) Service of notice shall be made pursuant to Section 7881 or
17 7882 of the Family Code or Section 290.2, 291, or 294 of the
18 Welfare and Institutions Code, as appropriate.

19 (d) Upon receipt by the court of a statement from the prisoner
20 or ~~his or her~~ *the prisoner's* attorney indicating the prisoner's desire
21 to be present during the court's proceedings, the court shall issue
22 an order for the temporary removal of the prisoner from the
23 institution, and for the prisoner's production before the court. ~~No~~
24 ~~proceeding may~~ *A proceeding may not* be held under Part 4
25 (commencing with Section 7800) of Division 12 of the Family
26 Code or Section 366.26 of the Welfare and Institutions Code and
27 ~~no~~ *a* petition to adjudge the child of a prisoner a dependent child
28 of the court pursuant to subdivision (a), (b), (c), (d), (e), (f), (i), or
29 (j) of Section 300 of the Welfare and Institutions Code may *not*
30 be adjudicated without the physical presence of the prisoner or the
31 prisoner's attorney, unless the court has before it a knowing waiver
32 of the right of physical presence signed by the prisoner or an
33 affidavit signed by the warden, superintendent, or other person in
34 charge of the institution, or ~~his or her~~ *a* designated representative
35 stating that the prisoner has, by express statement or action,
36 indicated an intent not to appear at the proceeding.

37 (e) In any other action or proceeding in which a prisoner's
38 parental or marital rights are subject to adjudication, an order for
39 the prisoner's temporary removal from the institution and for the
40 prisoner's production before the court may be made by the superior

1 court of the county in which the action or proceeding is pending,
2 or by a judge thereof. A copy of the order shall be transmitted to
3 the warden, superintendent, or other person in charge of the
4 institution not less than 15 days before the order is to be executed.
5 The order shall be executed by the sheriff of the county in which
6 it shall be made, whose duty it shall be to bring the prisoner before
7 the proper court, to keep the prisoner safely, and when the
8 prisoner's presence is no longer required, to return the prisoner to
9 the institution from which ~~he or she~~ *the prisoner* was taken. The
10 expense of executing the order shall be a proper charge against,
11 and shall be paid by, the county in which the order shall be made.

12 The order shall be to the following effect:

13 County of ____ (as the case may be).

14 The people of the State of California to the warden of ____:

15 An order having been made this day by me, that (name of
16 prisoner) be produced in this court as a party in the case of ____,
17 you are commanded to deliver (name of prisoner) into the custody
18 of ____ for the purpose of (recite purposes).

19 Dated this ____ day of ____, 20__.

20 (f) When a prisoner is removed from the institution pursuant to
21 this section, the prisoner shall remain in the constructive custody
22 of the warden, superintendent, or other person in charge of the
23 institution.

24 (g) A prisoner who is a parent of a child involved in a
25 dependency hearing described in this section and who has either
26 waived ~~his or her~~ *the* right to physical presence at the hearing
27 pursuant to subdivision (d) or who has not been ordered before
28 the court may, at the court's discretion, in order to facilitate the
29 parent's participation, be given the opportunity to participate in
30 the hearing by videoconference, if that technology is available,
31 and if that participation otherwise complies with the law. If
32 videoconferencing technology is not available, teleconferencing
33 may be utilized to facilitate parental participation. Because of the
34 significance of dependency court hearings for parental rights and
35 children's long-term care, physical attendance by the parent at the
36 hearings is preferred to participation by videoconference or
37 teleconference. This subdivision ~~shall not be construed to~~ *does not*
38 limit a prisoner's right to physically attend a dependency hearing
39 as provided in this section. This section does not authorize the use

1 of videoconference or teleconference to replace in-person family
2 visits with prisoners.

3 (h) It is the intent of the Legislature to maintain internal job
4 placement opportunities and preserve earned privileges for
5 prisoners, and prevent the removal of prisoners subject to this
6 section from court-ordered courses as a result of their participation
7 in the proceedings described in this section.

8 (i) Notwithstanding any other law, a court may not order the
9 removal and production of a prisoner sentenced to death, whether
10 or not that sentence is being appealed, in any action or proceeding
11 in which the prisoner’s parental rights are subject to adjudication.

12 *SEC. 6. Section 2960 of the Penal Code is amended to read:*

13 2960. (a) The Legislature finds that there are prisoners who
14 have a treatable, severe mental *health* disorder that was one of the
15 causes of, or was an aggravating factor ~~in~~ *in*, the commission of
16 the crime for which they were incarcerated. Secondly, the
17 Legislature finds that if the severe mental *health* disorders of those
18 prisoners are not in remission or cannot be kept in remission at the
19 time of their parole or upon termination of parole, there is a danger
20 to society, and the state has a compelling interest in protecting the
21 public. Thirdly, the Legislature finds that in order to protect the
22 public from those ~~persons~~ *persons*, it is necessary to provide mental
23 health treatment until the severe mental *health* disorder ~~which that~~
24 was one of the causes of or was an aggravating factor in the
25 person’s prior criminal behavior is in remission and can be kept
26 in remission. ~~The~~

27 (b) ~~The~~ Legislature further finds and declares the Department
28 of Corrections should evaluate each prisoner for severe mental
29 *health* disorders during the first year of the prisoner’s sentence,
30 and that ~~severely mentally disordered~~ prisoners *with severe mental*
31 *health disorders* should be provided with an appropriate level of
32 mental health treatment while in prison and when returned to the
33 community.

34 *SEC. 7. Section 2962 of the Penal Code is amended to read:*

35 2962. As a condition of parole, a prisoner who meets the
36 following criteria shall be provided necessary treatment by the
37 State Department of State Hospitals as follows:

38 (a) (1) The prisoner has a severe mental *health* disorder that is
39 not in remission or that cannot be kept in remission without
40 treatment.

1 (2) The term “severe mental *health* disorder” means an illness
2 or disease or condition that substantially impairs the person’s
3 thought, perception of reality, emotional process, or judgment; or
4 ~~which~~ *that* grossly impairs behavior; or that demonstrates evidence
5 of an acute brain syndrome for which prompt remission, in the
6 absence of treatment, is unlikely. The term “severe mental *health*
7 disorder,” as used in this section, does not include a personality
8 or adjustment disorder, epilepsy, mental retardation or other
9 developmental disabilities, or addiction to or abuse of intoxicating
10 substances.

11 (3) The term “remission” means a finding that the overt signs
12 and symptoms of the severe mental *health* disorder are controlled
13 either by psychotropic medication or psychosocial support. A
14 person “cannot be kept in remission without treatment” if during
15 the year prior to the question being before the Board of Parole
16 Hearings or a trial court, ~~he or she~~ *the person* has been in remission
17 and ~~he or she~~ has been physically violent, except in self-defense,
18 or ~~he or she~~ has made a serious threat of substantial physical harm
19 upon the person of another so as to cause the target of the threat
20 to reasonably fear for ~~his or her~~ *their* safety or the safety of ~~his or~~
21 ~~her~~ *their* immediate family, or ~~he or she~~ *the person* has intentionally
22 caused property damage, or ~~he or she~~ has not voluntarily followed
23 the treatment plan. In determining if a person has voluntarily
24 followed the treatment plan, the standard ~~shall be~~ *is* whether the
25 person has acted as a reasonable person would in following the
26 treatment plan.

27 (b) The severe mental *health* disorder was one of the causes of,
28 or was an aggravating factor in, the commission of a crime for
29 which the prisoner was sentenced to prison.

30 (c) The prisoner has been in treatment for the severe mental
31 *health* disorder for 90 days or more within the year prior to the
32 prisoner’s parole or release.

33 (d) (1) Prior to release on parole, the person in charge of treating
34 the prisoner and a practicing psychiatrist or psychologist from the
35 State Department of State Hospitals have evaluated the prisoner
36 at a facility of the Department of Corrections and Rehabilitation,
37 and a chief psychiatrist of the Department of Corrections and
38 Rehabilitation has certified to the Board of Parole Hearings that
39 the prisoner has a severe mental *health* disorder, that the disorder
40 is not in remission, or cannot be kept in remission without

1 treatment, that the severe mental *health* disorder was one of the
2 causes or was an aggravating factor in the prisoner's criminal
3 behavior, that the prisoner has been in treatment for the severe
4 mental *health* disorder for 90 days or more within the year prior
5 to ~~his or her~~ *the prisoner's* parole release day, and that by reason
6 of ~~his or her~~ *the prisoner's* severe mental *health* disorder the
7 prisoner represents a substantial danger of physical harm to others.
8 For prisoners being treated by the State Department of State
9 Hospitals pursuant to Section 2684, the certification shall be by a
10 chief psychiatrist of the Department of Corrections and
11 Rehabilitation, and the evaluation shall be done at a state hospital
12 by the person at the state hospital in charge of treating the prisoner
13 and a practicing psychiatrist or psychologist from the Department
14 of Corrections and Rehabilitation.

15 (2) If the professionals doing the evaluation pursuant to
16 paragraph (1) do not concur that (A) the prisoner has a severe
17 mental *health* disorder, (B) that the disorder is not in remission or
18 cannot be kept in remission without treatment, or (C) that the severe
19 mental *health* disorder was a cause of, or aggravated, the prisoner's
20 criminal behavior, and a chief psychiatrist has certified the prisoner
21 to the Board of Parole Hearings pursuant to this paragraph, then
22 the Board of Parole Hearings shall order a further examination by
23 two independent professionals, as provided for in Section 2978.

24 (3) If at least one of the independent professionals who evaluate
25 the prisoner pursuant to paragraph (2) concurs with the chief
26 psychiatrist's certification of the issues described in paragraph (2),
27 this subdivision shall be applicable to the prisoner. The
28 professionals appointed pursuant to Section 2978 shall inform the
29 prisoner that the purpose of their examination is not ~~treatment~~
30 *treatment*, but to determine if the prisoner meets certain criteria
31 to be involuntarily treated as ~~a mentally disordered offender. an~~
32 *offender with a mental health disorder*. It is not required that the
33 prisoner appreciate or understand that information.

34 (e) The crime referred to in subdivision (b) meets both of the
35 following criteria:

36 (1) The defendant received a determinate sentence pursuant to
37 Section 1170 for the crime.

38 (2) The crime is one of the following:

39 (A) Voluntary manslaughter.

40 (B) Mayhem.

1 (C) Kidnapping in violation of Section 207.

2 (D) ~~Any~~A robbery wherein it was charged and proved that the
3 defendant personally used a deadly or dangerous weapon, as
4 provided in subdivision (b) of Section 12022, in the commission
5 of that robbery.

6 (E) Carjacking, as defined in subdivision (a) of Section 215, if
7 it is charged and proved that the defendant personally used a deadly
8 or dangerous weapon, as provided in subdivision (b) of Section
9 12022, in the commission of the carjacking.

10 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
11 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
12 262.

13 (G) Sodomy by force, violence, duress, menace, or fear of
14 immediate and unlawful bodily injury on the victim or another
15 person.

16 (H) Oral copulation by force, violence, duress, menace, or fear
17 of immediate and unlawful bodily injury on the victim or another
18 person.

19 (I) Lewd acts on a child under 14 years of age in violation of
20 Section 288.

21 (J) Continuous sexual abuse in violation of Section 288.5.

22 (K) The offense described in subdivision (a) of Section 289
23 ~~where~~ *if* the act was accomplished against the victim's will by
24 force, violence, duress, menace, or fear of immediate and unlawful
25 bodily injury on the victim or another person.

26 (L) Arson in violation of subdivision (a) of Section 451, or arson
27 in violation of any other provision of Section 451 or in violation
28 of Section 455 ~~where~~ *if* the act posed a substantial danger of
29 physical harm to others.

30 (M) ~~Any~~A felony in which the defendant used a firearm which
31 use was charged and proved as provided in Section 12022.5,
32 12022.53, or 12022.55.

33 (N) A violation of Section 18745.

34 (O) Attempted murder.

35 (P) A crime not enumerated in subparagraphs (A) to (O),
36 inclusive, in which the prisoner used force or violence, or caused
37 serious bodily injury as defined in paragraph (4) of subdivision (f)
38 of Section 243.

39 (Q) A crime in which the perpetrator expressly or impliedly
40 threatened another with the use of force or violence likely to

1 produce substantial physical harm in ~~such~~ a manner that a
2 reasonable person would believe and expect that the force or
3 violence would be used. For purposes of this subparagraph,
4 substantial physical harm ~~shall~~ *does* not require proof that the
5 threatened act was likely to cause great or serious bodily injury.

6 (f) For purposes of meeting the criteria set forth in this section,
7 the existence or nature of the crime, as defined in paragraph (2)
8 of subdivision (e), for which the prisoner has been convicted may
9 be shown with documentary evidence. The details underlying the
10 commission of the offense that led to the conviction, including the
11 use of force or violence, causing serious bodily injury, or the threat
12 to use force or violence likely to produce substantial physical harm,
13 may be shown by documentary evidence, including, but not limited
14 to, preliminary hearing transcripts, trial transcripts, probation and
15 sentencing reports, and evaluations by the State Department of
16 State Hospitals.

17 (g) As used in this chapter, “substantial danger of physical harm”
18 does not require proof of a recent overt act.

19 *SEC. 8. Section 2966 of the Penal Code is amended to read:*

20 2966. (a) A prisoner may request a hearing before the Board
21 of Prison Terms, and the board shall conduct a hearing if so
22 requested, for the purpose of proving that the prisoner meets the
23 criteria in Section 2962. At the hearing, the burden of proof shall
24 be on the person or agency who certified the prisoner under
25 subdivision (d) of Section 2962. If the prisoner or any person
26 appearing on ~~his or her~~ *the prisoner’s* behalf at the hearing requests
27 it, the board shall appoint two independent professionals as
28 provided for in Section 2978. The prisoner shall be informed at
29 the hearing of ~~his or her~~ *the* right to request a trial pursuant to
30 subdivision (b). The Board of Prison Terms shall provide a prisoner
31 who requests a trial, a petition form and instructions for filing the
32 petition.

33 (b) A prisoner who disagrees with the determination of the
34 Board of Prison Terms that ~~he or she~~ *the prisoner* meets the criteria
35 of Section ~~2962, 2962~~ may file in the superior court of the county
36 in which ~~he or she~~ *the prisoner* is incarcerated or is being treated
37 a petition for a hearing on whether ~~he or she, the prisoner,~~ as of
38 the date of the Board of Prison Terms hearing, met the criteria of
39 Section 2962. The court shall conduct a hearing on the petition
40 within 60 calendar days after the petition is filed, unless either

1 time is waived by the petitioner or ~~his or her counsel~~, *the*
2 *petitioner's counsel* or good cause is shown. Evidence offered for
3 the purpose of proving the prisoner's behavior or mental status
4 subsequent to the Board of Prison Terms hearing shall not be
5 considered. The order of the Board of Prison Terms shall be in
6 effect until the completion of the court proceedings. The court
7 shall advise the petitioner of ~~his or her~~ *the* right to be represented
8 by an attorney and of the right to a jury trial. The attorney for the
9 petitioner shall be given a copy of the ~~petition~~, *petition* and any
10 supporting documents. The hearing shall be a civil ~~hearing~~;
11 ~~however, in hearing.~~ *In* order to reduce costs, the rules of criminal
12 discovery, as well as civil discovery, shall be applicable. The
13 standard of proof shall be beyond a reasonable doubt, and if the
14 trial is by jury, the jury shall be unanimous in its verdict. The trial
15 shall be by jury unless waived by both the person and the district
16 attorney. The court may, upon stipulation of both parties, receive
17 in evidence the affidavit or declaration of any psychiatrist,
18 psychologist, or other professional person who was involved in
19 the certification and hearing process, or any professional person
20 involved in the evaluation or treatment of the petitioner during the
21 certification process. The court may allow the affidavit or
22 declaration to be read and the contents thereof considered in the
23 rendering of a decision or verdict in any proceeding held pursuant
24 to ~~subdivision (b)~~ *this subdivision*, or *subdivision (c)*, or subdivision
25 (a) of Section 2972. If the court or jury reverses the determination
26 of the Board of Prison Terms, the court shall stay the execution of
27 the decision for five working days to allow for an orderly release
28 of the prisoner.

29 (c) If the Board of Prison Terms continues a parolee's mental
30 health treatment under Section 2962 when it continues the parolee's
31 parole under Section 3001, the procedures of this section shall
32 only be applicable for the purpose of determining if the parolee
33 has a severe mental *health* disorder, whether the parolee's severe
34 mental *health* disorder is not in remission or cannot be kept in
35 remission without treatment, and whether by reason of ~~his or her~~
36 *the parolee's* severe mental *health* disorder, the parolee represents
37 a substantial danger of physical harm to others.

38 *SEC. 9. Section 2968 of the Penal Code is amended to read:*

39 2968. If the prisoner's severe mental *health* disorder is put into
40 remission during the parole period, and can be kept in remission,

1 the Director of State Hospitals shall notify the Board of Parole
2 Hearings and the State Department of State Hospitals shall
3 discontinue treating the parolee.

4 *SEC. 10. Section 2970 of the Penal Code is amended to read:*

5 2970. (a) Not later than 180 days prior to the termination of
6 parole, or release from prison if the prisoner refused to agree to
7 treatment as a condition of parole as required by Section 2962,
8 unless good cause is shown for the reduction of that 180-day
9 period, if the parolee's or prisoner's severe mental *health* disorder
10 is not in remission or cannot be kept in remission without treatment,
11 the medical director of the state hospital that is treating the parolee,
12 or the community program director in charge of the parolee's
13 outpatient program, or the Secretary of the Department of
14 Corrections and Rehabilitation, shall submit to the district attorney
15 of the county in which the parolee is receiving outpatient treatment,
16 or for those in prison or in a state mental hospital, the district
17 attorney of the county of commitment to prison, ~~his or her~~ a written
18 evaluation on remission. If requested by the district attorney, the
19 written evaluation shall be accompanied by supporting affidavits.

20 (b) The district attorney may then file a petition with the superior
21 court for continued involuntary treatment for one year. The petition
22 shall be accompanied by affidavits specifying that treatment, while
23 the prisoner was released from prison on parole, has been
24 continuously provided by the State Department of State Hospitals
25 either in a state hospital or in an outpatient program. The petition
26 shall also specify that the prisoner has a severe mental *health*
27 disorder, that the severe mental *health* disorder is not in remission
28 or cannot be kept in remission if the person's treatment is not
29 continued, and that, by reason of ~~his or her~~ *the person's* severe
30 mental *health* disorder, the prisoner represents a substantial danger
31 of physical harm to others.

32 *SEC. 11. Section 2972 of the Penal Code is amended to read:*

33 2972. (a) (1) The court shall conduct a hearing on the petition
34 under Section 2970 for continued treatment. The court shall advise
35 the person of ~~his or her~~ *the* right to be represented by an attorney
36 and of the right to a jury trial. The attorney for the person shall be
37 given a copy of the petition, and any supporting documents. The
38 hearing shall be a civil hearing, however, in order to reduce costs
39 the rules of criminal discovery, as well as civil discovery, shall be
40 applicable.

1 The

2 (2) *The* standard of proof under this section shall be proof
3 beyond a reasonable doubt, and if the trial is by jury, the jury shall
4 be unanimous in its verdict. The trial shall be by jury unless waived
5 by both the person and the district attorney. The trial shall
6 commence no later than 30 calendar days prior to the time the
7 person would otherwise have been released, unless the time is
8 waived by the person or unless good cause is shown.

9 (b) The people shall be represented by the district attorney. If
10 the person is indigent, the county public defender shall be
11 appointed.

12 (c) If the court or jury finds that the patient has a severe mental
13 *health* disorder, that the patient's severe mental *health* disorder is
14 not in remission or cannot be kept in remission without treatment,
15 and that by reason of ~~his or her~~ *the patient's* severe mental *health*
16 disorder, the patient represents a substantial danger of physical
17 harm to others, the court shall order the patient recommitted to the
18 facility in which the patient was confined at the time the petition
19 was filed, or recommitted to the outpatient program in which ~~he~~
20 ~~or she~~ *the patient* was being treated at the time the petition was
21 filed, or committed to the State Department of State Hospitals if
22 the person was in prison. The commitment shall be for a period of
23 one year from the date of termination of parole or a previous
24 commitment or the scheduled date of release from prison as
25 specified in Section 2970. Time spent on outpatient status, except
26 when placed in a locked facility at the direction of the outpatient
27 supervisor, shall not count as actual custody and shall not be
28 credited toward the person's maximum term of commitment or
29 toward the person's term of extended commitment.

30 (d) A person shall be released on outpatient status if the
31 committing court finds that there is reasonable cause to believe
32 that the committed person can be safely and effectively treated on
33 an outpatient basis. Except as provided in this subdivision, the
34 provisions of Title 15 (commencing with Section 1600) of Part ~~2,~~
35 ~~shall 2~~ apply to persons placed on outpatient status pursuant to
36 this paragraph. The standard for revocation under Section 1609
37 ~~shall be~~ *is* that the person cannot be safely and effectively treated
38 on an outpatient basis.

39 (e) Prior to the termination of a commitment under this section,
40 a petition for recommitment may be filed to determine whether

1 the patient's severe mental *health* disorder is not in remission or
2 cannot be kept in remission without treatment, and whether by
3 reason of ~~his or her~~ *the patient's* severe mental *health* disorder,
4 the patient represents a substantial danger of physical harm to
5 others. The recommitment proceeding shall be conducted in
6 accordance with the provisions of this section.

7 (f) ~~Any~~A commitment under this article places an affirmative
8 obligation on the treatment facility to provide treatment for the
9 underlying causes of the person's mental *health* disorder.

10 (g) Except as provided in this subdivision, the person committed
11 shall be considered to be an involuntary mental health patient and
12 ~~he or she~~ shall be entitled to those rights set forth in Article 7
13 (commencing with Section 5325) of Chapter 2 of Part 1 of Division
14 5 of the Welfare and Institutions Code. Commencing January 1,
15 1986, the State Department of Mental Health, or its successor, the
16 State Department of State Hospitals, may adopt regulations to
17 modify those rights as is necessary in order to provide for the
18 reasonable security of the inpatient facility in which the patient is
19 being held. This subdivision and the regulations adopted pursuant
20 thereto shall become operative on January 1, 1987, except that
21 regulations may be adopted prior to that date.

22 *SEC. 12. Section 2974 of the Penal Code is amended to read:*

23 2974. Before releasing any inmate or terminating supervision
24 of any parolee who is a danger to self or others, or gravely disabled
25 as a result of *a* mental *health* disorder, and who does not come
26 within the provisions of Section 2962, the Director of Corrections
27 may, upon probable cause, place, or cause to be placed, the person
28 in a state hospital pursuant to the Lanterman-Petris-Short Act, Part
29 1 (commencing with Section 5000) of Division 5 of the Welfare
30 and Institutions Code.

31 *SEC. 13. Section 2978 of the Penal Code is amended to read:*

32 2978. (a) Any independent professionals appointed by the
33 Board of Parole Hearings for purposes of this article shall not be
34 state government ~~employees;~~ *employees. The independent*
35 *professionals appointed* shall have at least five years of experience
36 in the diagnosis and treatment of ~~mental disorders;~~ *health disorders*
37 and shall include ~~psychiatrists;~~ *psychiatrists* and licensed
38 psychologists who have a doctoral degree in psychology.

39 (b) On July 1 of each year the Department of Corrections and
40 Rehabilitation and the State Department of State Hospitals shall

1 submit to the Board of Parole Hearings a list of 20 or more
2 independent professionals on which both departments concur. The
3 professionals shall not be state government employees and shall
4 have at least five years of experience in the diagnosis and treatment
5 of mental *health* disorders and shall include psychiatrists and
6 licensed psychologists who have a doctoral degree in psychology.
7 For purposes of this article, ~~when~~ *once* the Board of Parole
8 Hearings receives the list, it shall only appoint independent
9 professionals from the list. The list ~~shall~~ *is* not be binding on the
10 Board of Parole Hearings until it has received the list, and ~~shall~~ *is*
11 not be binding after June 30 following receipt of the list.

12 *SEC. 14. Section 4011.6 of the Penal Code is amended to read:*
13 *4011.6. In any case in which (a) If it appears to the person in*
14 *charge of a county jail, city jail, or juvenile detention facility, or*
15 *to any judge of a court in the county in which the jail or juvenile*
16 *detention facility is located, that a person in custody in that jail or*
17 *juvenile detention facility may be mentally disordered, he or she*
18 *have a mental health disorder, that person or judge may cause the*
19 *prisoner to be taken to a facility for 72-hour treatment and*
20 *evaluation pursuant to Section 5150 of the Welfare and Institutions*
21 *Code and he or she shall inform the facility in writing, which shall*
22 *be confidential, of the reasons that the person is being taken to the*
23 *facility. The local mental health director or his or her the director's*
24 *designee may examine the prisoner prior to transfer to a facility*
25 *for treatment and evaluation. Upon transfer to a facility, Article 1*
26 *(commencing with Section 5150), Article 4 (commencing with*
27 *Section 5250), Article 4.5 (commencing with Section 5260), Article*
28 *5 (commencing with Section 5275), Article 6 (commencing with*
29 *Section 5300), and Article 7 (commencing with Section 5325) of Part*
30 *Chapter 2 and Chapter 3 (commencing with Section 5350) of Part*
31 *1 of Division 5 of the Welfare and Institutions Code shall apply*
32 *to the prisoner.*

33 *Where*

34 *(b) If the court causes the prisoner to be transferred to a 72-hour*
35 *facility, the court shall forthwith immediately notify the local*
36 *mental health director or his or her the director's designee, the*
37 *prosecuting attorney, and counsel for the prisoner in the criminal*
38 *or juvenile proceedings about that transfer. Where the person in*
39 *charge of the jail or juvenile detention facility causes the transfer*
40 *of the prisoner to a 72-hour facility facility, the person shall*

1 immediately notify the local mental health director or ~~his or her~~
 2 *the director's* designee and each court within the county where
 3 the prisoner has a pending proceeding about the transfer. Upon
 4 notification by the person in charge of the jail or juvenile detention
 5 ~~facility~~ *facility*, the court shall ~~forthwith~~ *immediately* notify counsel
 6 for the prisoner and the prosecuting attorney in the criminal or
 7 juvenile proceedings about that transfer.

8 If

9 (c) If a prisoner is detained in, or remanded to, a facility pursuant
 10 to ~~those~~ *the* articles of the Welfare and Institutions ~~Code~~, *Code*
 11 *listed in subdivision (a)*, the facility shall transmit a report, which
 12 shall be confidential, to the person in charge of the jail or juvenile
 13 detention facility or judge of the court who caused the prisoner to
 14 be taken to the facility and to the local mental health director or
 15 ~~his or her~~ *the director's* designee, concerning the condition of the
 16 prisoner. A new report shall be transmitted at the end of each period
 17 of confinement provided for in those articles, upon conversion to
 18 voluntary status, and upon filing of temporary letters of
 19 conservatorship.

20 A

21 (d) A prisoner who has been transferred to an inpatient facility
 22 pursuant to this section may convert to voluntary inpatient status
 23 without obtaining the consent of the court, the person in charge of
 24 the jail or juvenile detention ~~facility~~, *facility*, or the local mental
 25 health director. At the beginning of that conversion to voluntary
 26 status, the person in charge of the facility shall transmit a report
 27 to the person in charge of the jail or juvenile detention facility or
 28 judge of the court who caused the prisoner to be taken to the
 29 facility, counsel for the prisoner, prosecuting attorney, and local
 30 mental health director or ~~his or her~~ *the director's* designee.

31 If

32 (e) If the prisoner is detained in, or remanded to, a facility
 33 pursuant to ~~those~~ *the* articles of the Welfare and Institutions ~~Code~~,
 34 *Code listed in subdivision (a)*, the time passed in the facility shall
 35 count as part of the prisoner's sentence. When the prisoner is
 36 detained in, or remanded to, the facility, the person in charge of
 37 the jail or juvenile detention facility shall advise the professional
 38 person in charge of the facility of the expiration date of the
 39 prisoner's sentence. If the prisoner is to be released from the facility
 40 before the expiration date, the professional person in charge shall

1 notify the local mental health director or ~~his or her~~ *the director's*
2 designee, counsel for the prisoner, the prosecuting attorney, and
3 the person in charge of the jail or juvenile detention facility, who
4 shall send for, take, and receive the prisoner back into the jail or
5 juvenile detention facility.

6 **A**

7 (f) A defendant, either charged with or convicted of a criminal
8 offense, or a minor alleged to be within the jurisdiction of the
9 juvenile court, may be concurrently subject to the
10 Lanterman-Petris-Short Act (Part 1 (commencing with Section
11 5000) of Division 5 of the Welfare and Institutions Code).

12 **If**

13 (g) *If* a prisoner is detained in a facility pursuant to ~~those the~~
14 articles of the Welfare and Institutions Code *listed in subdivision*
15 (a), and if the person in charge of the facility determines that
16 arraignment or trial would be detrimental to the well-being of the
17 prisoner, the time spent in the facility shall not be computed in
18 any statutory time requirements for arraignment or trial in any
19 pending criminal or juvenile proceedings. ~~Otherwise, this~~ *This*
20 section shall not affect any statutory time requirements for
21 arraignment or trial in any pending criminal or juvenile
22 proceedings.

23 **For**

24 (h) *For* purposes of this section, the term “juvenile detention
25 facility” includes any state, county, or private home or institution
26 in which wards or dependent children of the juvenile court or
27 persons awaiting a hearing before the juvenile court are detained.

28 *SEC. 15. Section 4497 of the Penal Code is amended to read:*

29 4497. (a) The Legislature finds and declares that approval by
30 the electors of the County Correctional Facilities Capital
31 Expenditure and Youth Facility Bond Act of 1988 has made new
32 funds available for the construction and renovation of county jails
33 and county juvenile facilities. The Legislature hereby directs the
34 Board of Corrections to allocate and administer the moneys
35 intended in the County Correctional Facilities Capital Expenditure
36 and Youth Facility Bond Act of 1988 for county jails, and the
37 Department of the Youth Authority to allocate and administer the
38 moneys intended in the County Correctional Facilities Capital
39 Expenditure and Youth Facility Bond Act of 1988 for juvenile
40 facilities, in accordance with the provisions of this title.

1 (b) Money appropriated for allocation under this title may be
 2 used for the renovation, replacement, reconstruction, or
 3 construction of county jail facilities, county medical facilities
 4 designated to house persons charged with or convicted of a crime
 5 and who are ~~mentally ill~~, *experiencing mental illness*, and county
 6 juvenile facilities. Money appropriated by this title may also be
 7 used for construction of separate local detention facility space for
 8 detoxification of persons arrested because of intoxication.

9 (c) It is the Legislature's intention to make the money
 10 appropriated for allocation under this title available to counties
 11 with established and documented needs for capital projects for jail
 12 and juvenile facilities. However, that money shall not be used to
 13 build facilities that the counties cannot afford to operate fully and
 14 safely.

15 *SEC. 16. Section 4497.10 of the Penal Code is amended to*
 16 *read:*

17 4497.10. To be eligible for funding consideration, a county
 18 shall, to the satisfaction of the board, do all of the following:

19 (a) Certify that juveniles are not housed in the county's adult
 20 detention facilities, except where authorized by ~~law~~; *law*, and
 21 document the existence of, or plans for, separate housing for
 22 juveniles.

23 (b) Document the existence of, or plans for, separate housing
 24 for persons detained or arrested because of intoxication, which
 25 will prevent mixing of this category of prisoner with other
 26 prisoners. If the county has no existing provisions for detoxification
 27 housing, it shall make provisions for that housing as part of its
 28 proposed project.

29 (c) Document the existence of, or plans for, separate housing
 30 for ~~mentally disordered defendants or convicted prisoners~~
 31 *defendants or convicted prisoners with mental health disorders*,
 32 which will prevent mixing of this category of prisoner with other
 33 prisoners until the time that the responsible health authority or ~~his~~
 34 ~~or her~~ *the health authority's* designee clears specific prisoners for
 35 nonseparate housing, based on clinical judgment. If the county has
 36 no existing provisions for separate housing of ~~mentally disordered~~
 37 ~~prisoners~~, *prisoners with mental health disorders*, it shall make
 38 provisions for that housing as part of its proposed project.

39 (d) (1) Submit a formal project proposal to the board on or
 40 before September 30, 1990. The project proposal shall describe

1 the construction or renovation project to be undertaken and shall
2 include an estimated budget for the project. The proposal shall
3 also identify how county funding obligations, both for construction
4 and operation of the facility, will be met. The project proposal
5 shall be consistent with the needs and priorities identified in the
6 needs assessment by the county.

7 **Failure**

8 (2) *Failure* to submit a project proposal shall be deemed a
9 declaration by the county that it does not intend to request its
10 allocation under subdivisions (a) and (b) of Section 4497.04, and
11 the amounts allocated in those subdivisions to the county shall be
12 available for reallocation by the board. The board may waive this
13 requirement for submission of a proposal within one year if it
14 determines there are unavoidable delays in the county's preparation
15 of a project proposal.

16 (e) Submit architectural drawings ~~which~~ *that* shall be approved
17 by the board for compliance with minimum jail standards and by
18 the State Fire Marshal for compliance with fire safety requirements.
19 If the board concludes that a county's proposed construction or
20 renovation contains serious design deficiencies that, while they
21 would not require a refusal to enter into the contract, would
22 seriously impair the facility's functioning, it shall notify the sheriff
23 and the board of supervisors of that county of the deficiencies and
24 shall delay entering into a contract with the county for at least 30
25 days after mailing the letter. This letter shall be a public record.

26 (f) The county shall certify that it owns, or has long-term
27 possession of, the construction site.

28 (g) The county shall have filed a final notice of determination
29 on its environmental impact report with the board.

30 (h) The county has formally adopted a plan to finance the
31 construction of the proposed facility.

32 (i) The county shall have submitted a preliminary staffing plan
33 for the proposed facility, along with an analysis of other operating
34 costs anticipated for the facility, to the board for review and
35 comment. Prior to submission of the staffing plan and operating
36 costs analysis of the board, the county board of supervisors shall
37 have reviewed and approved the submittal in or following public
38 hearings. The sheriff shall also have reviewed and commented on
39 the preliminary staffing plan and the operating cost analysis. The

1 board shall comment in writing to the sheriff and board of
 2 supervisors. This letter shall be a public record.

3 (j) (1) The county shall submit either a major or minor needs
 4 assessment documenting the need for and purpose of the proposed
 5 project. The needs assessment shall meet all requirements listed
 6 in the applicable County Correctional Facility Capital Expenditure
 7 Fund regulations. The board may exempt a county from performing
 8 a new needs assessment if any of the following conditions exist:

9 (1)

10 (A) The board determines that a prior needs assessment is in
 11 substantial compliance and it justifies the project being funded in
 12 Section 4497.04.

13 (2)

14 (B) A county receives funds from this bond act in an amount of
 15 three hundred thousand dollars (\$300,000) or less.

16 (3)

17 (2) If exempted from performing a needs assessment, counties
 18 shall provide an analysis of specific jail deficiencies, including
 19 levels of security, program, including, but not limited to, medical
 20 and mental health care, housing, and administration. This analysis
 21 shall also include specific plans for correcting the deficiencies.

22 (k) (1) Demonstrate to the ~~board~~ board, unless the county's
 23 sole project is a remodel of an existing adult detention facility
 24 which that will not result in the addition of any beds, that it is
 25 using, to the greatest extent feasible, alternatives to incarceration
 26 based on the following measures: ~~an~~

27 (A) An incarceration rate of no more than one standard deviation
 28 above the mean for all ~~counties and, either~~ counties.

29 (B) Either a pretrial misdemeanor incarceration rate of no more
 30 than one standard deviation above the mean for all counties or a
 31 sentenced prisoner alternatives percentage of 5 percent or more as
 32 related to total sentenced prisoner admissions.

33 (4)

34 (2) (A) The data to be used in establishing the incarceration
 35 rate will be the 1989 calendar year average daily population as
 36 reported by each county to the board and the Department of Finance
 37 Report on Population by County.

38 (5)

39 (B) The pretrial misdemeanor incarceration rate will be based
 40 on an average of the daily pretrial misdemeanor jail population,

1 developed from a four-day sample period in 1989 specified by the
2 board.

3 ~~(3)~~

4 (C) The sentenced prisoner alternatives percentage will be based
5 on enrollment in three programs: Section 4024.2 of the Penal Code
6 (work-in-lieu of jail), county parole, and home detention if the
7 placement is made after some jail time is served.

8 ~~(4)~~

9 (D) Counties failing to demonstrate adequate use of alternatives
10 to incarcerations by the above measure by March 30, 1990, shall
11 be reevaluated annually by the board. If any county is unable to
12 satisfy the requirements of this section by September 30, 1993,
13 the amount allocated to the county shall revert to the state, to be
14 reallocated by the board pursuant to subdivision (c) of Section
15 4497.04.

16 (I) Begin construction or renovation work within four years of
17 the effective date of this title. If a county fails to meet this
18 requirement, any allocations to the county under this chapter shall
19 be deemed void and moneys allocated to the county shall revert
20 to the board for reallocation. The board may waive this requirement
21 if it determines that there are unavoidable delays in the initial
22 construction activities.

23 (m) Counties shall provide for the construction of appropriate
24 courtroom facilities and hearing room facilities within any jail
25 construction plan submitted to the board. Those courtroom facilities
26 and hearing room facilities shall be utilized for purposes of holding
27 appropriate arraignments and bail hearings and for the conduct of
28 parole revocation hearings. The board may waive this requirement
29 where county specific circumstances dictate.

30 *SEC. 17. Section 6102 of the Penal Code is amended to read:*

31 6102. The primary purpose of the medical facility shall be the
32 receiving, segregation, confinement, treatment and care of males
33 under the custody of the Department of Corrections or any agency
34 thereof who are any of the following:

35 ~~(a) Mentally disordered.~~

36 ~~(b) Developmentally disabled.~~

37 (a) *Persons with mental health disorders.*

38 (b) *Persons with developmental disabilities.*

39 (c) ~~Addicted~~ *Persons who are addicted* to the use of controlled
40 substances.

1 (d) ~~Suffering~~ *Persons who are suffering* from any other chronic
2 disease or condition.

3 *SEC. 18. Section 6100.5 of the Probate Code is amended to*
4 *read:*

5 6100.5. (a) An individual is not mentally competent to make
6 a will ~~if~~ *if*, at the time of making the ~~will~~ *will*, either of the
7 following is true:

8 (1) The individual does not have sufficient mental capacity to
9 be able to ~~(A) understand~~ *do any of the following:*

10 (A) *Understand* the nature of the testamentary ~~act~~, ~~(B)~~
11 ~~understand~~ *act*.

12 (B) *Understand* and recollect the nature and situation of the
13 individual's ~~property~~, or ~~(C) remember~~ *property*.

14 (C) *Remember* and understand the individual's relations to living
15 descendants, spouse, and parents, and those whose interests are
16 affected by the will.

17 (2) The individual suffers from a mental *health* disorder with
18 symptoms including delusions or hallucinations, which delusions
19 or hallucinations result in the individual's devising property in a
20 way ~~which~~, *that*, except for the existence of the delusions or
21 hallucinations, the individual would not have done.

22 (b) ~~Nothing in this section supersedes~~ *This section does not*
23 *supersede* existing law relating to the admissibility of evidence to
24 prove the existence of mental incompetence or mental *health*
25 disorders.

26 (c) Notwithstanding subdivision (a), a conservator may make
27 a will on behalf of a conservatee if the conservator has been ~~so~~
28 *authorized to do so* by a court order pursuant to Section 2580.

29 *SEC. 19. Section 253 of the Revenue and Taxation Code is*
30 *amended to read:*

31 253. If, because of active military service of the United States
32 in time of war, sickness or other cause found to be unavoidable in
33 the judgment of the assessor, an applicant for the veterans'
34 exemption is unable to attend in person before the assessor, and
35 ~~no~~ *a* deputy is *not* available to go to the place where ~~he~~ *the*
36 *applicant* is located, then the applicant may make and subscribe
37 the affidavit before any person authorized to administer an oath.
38 If, during time of war, the applicant is in active military service
39 of the United States or of any nation with which the United States
40 is allied, or is outside of the continental limits of the United States,

1 or if the person entitled to the exemption is ~~insane or mentally~~
2 ~~incompetent~~, *has a mental health disorder or lacks mental capacity*,
3 a member of ~~his the applicant's~~ immediate family, ~~his guardian,~~
4 *family or the applicant's guardian* or legal representative, having
5 personal knowledge of the facts required to be set forth, may appear
6 before the assessor and may make and subscribe the affidavit on
7 ~~his the applicant's~~ behalf.

8 *SEC. 20. Section 4242 of the Welfare and Institutions Code is*
9 *amended to read:*

10 4242. As used in this chapter, the following definitions apply:

11 (a) "Family" means persons whose children, spouses, siblings,
12 parents, grandparents, or grandchildren have a serious mental
13 *health disorder.*

14 (b) "Serious mental *health disorder*" means a mental *health*
15 disorder that is severe in degree and persistent in duration and that
16 may cause a behavioral disorder or impair functioning so as to
17 interfere substantially with activities of daily living. Serious mental
18 *health disorders* include schizophrenia, major affective disorders,
19 and other severely disabling mental *health disorders.*

20 *SEC. 21. Section 5213 of the Welfare and Institutions Code is*
21 *amended to read:*

22 5213. (a) If, upon evaluation, the person is found to be in need
23 of treatment because ~~he or she the person~~ is, as a result of a mental
24 *health disorder*, a danger to *self or others*, ~~or to himself or herself~~,
25 or is gravely disabled, ~~he or she the person~~ may be detained for
26 treatment in a facility for 72-hour treatment and evaluation.
27 Saturdays, Sundays, and holidays may be excluded from the
28 72-hour period if the State Department of Social Services certifies
29 for each facility that evaluation and treatment services ~~cannot~~ *may*
30 *not* reasonably be made available on those days. The certification
31 by the department is subject to renewal every two years. The
32 department shall adopt regulations defining criteria for determining
33 whether a facility ~~can~~ *may* reasonably be expected to make
34 evaluation and treatment services available on Saturdays, Sundays,
35 and holidays.

36 (b) Persons who have been detained for evaluation and
37 treatment, who are receiving medications as a result of their mental
38 illness, shall be given, as soon as possible after detention, written
39 and oral information about the probable effects and possible side
40 effects of the medication, by a person designated by the mental

1 health facility where the person is detained. The State Department
 2 of Social Services shall develop and promulgate written materials
 3 on the effects of medications, for use by county mental health
 4 programs as disseminated or as modified by the county mental
 5 health program, addressing the probable effects and the possible
 6 side effects of the medication. The following information shall be
 7 given orally to the patient:

8 (1) The nature of the mental illness, or behavior, that is the
 9 reason the medication is being given or recommended.

10 (2) The likelihood of improving or not improving without the
 11 medications.

12 (3) Reasonable alternative treatments available.

13 (4) The name and type, frequency, amount, and method of
 14 dispensing the medications, and the probable length of time that
 15 the medications will be taken.

16 ~~The~~

17 (c) *The* fact that the information has or has not been given shall
 18 be indicated in the patient’s chart. If the information has not been
 19 given, the designated person shall document in the patient’s chart
 20 the justification for not providing the information. A failure to give
 21 information about the probable effects and possible side effects of
 22 the medication ~~shall~~ *does* not constitute new grounds for release.

23 *SEC. 22. Section 5300 of the Welfare and Institutions Code is*
 24 *amended to read:*

25 5300. (a) At the expiration of the 14-day period of intensive
 26 treatment, a person may be confined for further treatment pursuant
 27 to the provisions of this article for an additional period, not to
 28 exceed 180 days if one of the following exists:

29 ~~(a)~~

30 (1) The person has attempted, inflicted, or made a serious threat
 31 of substantial physical harm upon the person of another after having
 32 been taken into custody, and while in custody, for evaluation and
 33 treatment, and who, as a result of ~~a mental disorder or mental~~
 34 ~~defect,~~ *health disorder*, presents a demonstrated danger of inflicting
 35 substantial physical harm upon others.

36 ~~(b)~~

37 (2) The person had attempted, or inflicted physical harm upon
 38 the person of another, that act having resulted in ~~his or her~~ *the*
 39 *person* being taken into custody and who presents, as a result of

1 ~~a mental disorder or mental defect~~, *health disorder*, a demonstrated
2 danger of inflicting substantial physical harm upon others.

3 ~~(e)~~

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

11 ~~Any~~

12 (b) A commitment to a licensed health facility under this article
13 places an affirmative obligation on the facility to provide treatment
14 for the underlying causes of the person's mental *health* disorder.

15 ~~Amenability~~

16 (c) *Amenability* to treatment is not required for a finding that
17 ~~any~~ a person is a person as described in ~~(a), (b), or (e)~~. *paragraph*
18 *(1), (2), or (3) of subdivision (a)*. Treatment programs need only
19 be made available to these persons. Treatment does not mean that
20 the treatment *must* be successful or potentially successful, and it
21 does not mean that the person must recognize ~~his or her~~ *the*
22 *person's* problem and willingly participate in the treatment
23 program.