

Assembly Bill No. 1443

Passed the Assembly September 1, 2021

Chief Clerk of the Assembly

Passed the Senate August 30, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 5121 and 5154 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1443, McCarty. Mental health: involuntary treatment.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary detention and treatment of persons with specified mental health disorders. 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. Existing law authorizes specified individuals to take a person into custody pursuant to these provisions, including designated members of a mobile crisis team and professional persons designated by the county. Existing law authorizes a county behavioral health director to develop procedures for the county's designation and training of professionals who will be authorized to perform these functions.

This bill would authorize a county to develop a training relating to those procedures for designation. The bill would require a county behavioral health director who denies or revokes an individual's designation to provide a written notification to the person who made the request for designation of the individual, and the individual who is the subject of the request for designation, describing the reasons for denial or revocation. The bill would require the County of Sacramento, if the county has adopted those procedures, to, by April 1, 2022, issue a written policy regarding those procedures. The bill would require the policy to contain specified components, including, among others, a requirement that the county behavioral health director of the County of Sacramento designate individuals employed by the City of Sacramento under certain circumstances. The bill would also prohibit a designated member of a mobile crisis team or a designated professional person from being held civilly or criminally liable, as a result of detaining or transporting a person pursuant to those provisions, for any action

by the person detained or transported if they are released at or before the end of the 72-hour detention. By imposing new duties on counties, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Sacramento and the City of Sacramento.

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.

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

SECTION 1. Section 5121 of the Welfare and Institutions Code is amended to read:

5121. (a) The county behavioral health director may develop procedures for the county's designation and training of professionals who will be designated to perform functions under Section 5150. These procedures may include, but are not limited to, the following:

(1) The license types, practice disciplines, and clinical experience of professionals eligible to be designated by the county.

(2) The initial and ongoing training and testing requirements for professionals eligible to be designated by the county.

(3) The application and approval processes for professionals seeking to be designated by the county, including the timeframe for initial designation and procedures for renewal of the designation.

(4) The county's process for monitoring and reviewing professionals designated by the county to ensure appropriate compliance with state law, regulations, and county procedures.

(b) A county behavioral health director may develop a training for the procedures for designation developed pursuant to subdivision (a).

(c) If a county behavioral health director denies or revokes an individual's designation, the county behavioral health director

shall, in writing, notify the person who made the request for designation of the individual and the individual who is the subject of the request for designation describing the reasons for denial or revocation.

(d) Designated members of a mobile crisis team and designated professional persons shall not be prohibited from transporting a person taken into custody pursuant to Section 5150.

(e) If the county behavioral health director of the County of Sacramento develops procedures pursuant to subdivision (a), the county behavioral health director of the County of Sacramento shall, by April 1, 2022, issue a written policy regarding the procedures developed pursuant to subdivision (a). The policy shall address, at a minimum, the topics identified in paragraphs (1) to (4), inclusive, of subdivision (a). The policy shall require the county behavioral health director of the County of Sacramento to designate individuals employed by the City of Sacramento who are also members of a mobile crisis team or who are also professional persons if all of the following are true:

(1) The City of Sacramento submits a written request to the county behavioral health director.

(2) The individuals meet the requirements for designation included in the policy.

(3) If the county behavioral health director of the County of Sacramento has developed a training pursuant to subdivision (b), the individuals have completed that training.

SEC. 2. Section 5154 of the Welfare and Institutions Code is amended to read:

5154. (a) Notwithstanding Section 5113, if the provisions of Section 5152 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, their designee, the medical director of the facility or their designee described in Section 5152, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, their designee, the medical director of the facility or their designee described in Section 5152, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for

any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

(d) A member of a mobile crisis team or a professional person who has been designated by the county pursuant to Section 5121 and who detains or transports a person pursuant to Section 5150 shall not, as a result of detaining or transporting the person, be civilly or criminally liable for any action by the person if the person is released at or before the end of the 72 hours pursuant to this article.

(e) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the need to determine if requiring a written policy to designate individuals to perform functions under Section 5150 of the Welfare and Institutions Code, and if requiring a county to designate employees of a municipality within that county to perform those functions, is necessary on a statewide basis.

SEC. 4. 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.

Approved _____, 2021

Governor