

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 662**

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**Introduced by Assembly Member Rodriguez**

February 12, 2021

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An act to add Section 1799.1045 to the Health and Safety Code, and to amend Section 5150 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 662, as amended, Rodriguez. Mental health: involuntary treatment: *treatment: emergency medical personnel*.

**Existing**

(1) 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 *by specified individuals, including by a peace officer or designated members of a mobile crisis team*, 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.

This bill would state the intent of the Legislature to enact legislation on those provisions and ambulance transportation services.

This bill would authorize those specified individuals who may take a person into custody to authorize, in writing, prescribed emergency medical personnel to transport a person to a facility designated by the

county for evaluation and treatment and approved by the State Department of Health Care Services.

(2) Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, establishes the Emergency Medical Services Authority, among other things, to establish training standards for emergency medical technicians (EMT) at various levels, including EMT-I, EMT-II, and EMT-P. Under the act, existing law sets forth various limitations on liability for individuals who render emergency medical services, including limiting the liability of an EMT-II or mobile intensive care paramedic rendering care within the scope of their duties who, in good faith and in a nonnegligent manner, follows the instructions of a physician or nurse.

This bill would additionally exempt emergency medical personnel under the act from incurring any liability for civil damages resulting from an act or omission unless that act or omission constitutes gross negligence or willful or wanton misconduct if the emergency personnel is transporting a person to a facility, as specified in paragraph (1), and is rendering care within the scope of their duties during the transport.

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. Section 1799.1045 is added to the Health and  
2 Safety Code, immediately following Section 1799.104, to read:

3        1799.1045. Emergency medical personnel, as specified in this  
4 division, shall not be liable for any civil damages resulting from  
5 an act or omission unless that act or omission constitutes gross  
6 negligence or willful or wanton misconduct if both of the following  
7 are met:

8        (a) They are transporting a person to a facility pursuant to  
9 paragraph (2) of subdivision (a) of Section 5150 of the Welfare  
10 and Institutions Code.

11       (b) They are rendering care within the scope of their duties  
12 during the transport, as described in subdivision (a).

13       SEC. 2. Section 5150 of the Welfare and Institutions Code is  
14 amended to read:

15       5150. (a) (1) When a person, as a result of a mental health  
16 disorder, is a danger to others, or to himself or herself, self or  
17 others, or gravely disabled, a peace officer, professional person in

1 charge of a facility designated by the county for evaluation and  
2 treatment, member of the attending staff, as defined by regulation,  
3 of a facility designated by the county for evaluation and treatment,  
4 designated members of a mobile crisis team, or professional person  
5 designated by the county may, upon probable cause, take, or cause  
6 to be taken, the person into custody for a period of up to 72 hours  
7 for assessment, evaluation, and crisis intervention, or placement  
8 for evaluation and treatment in a facility designated by the county  
9 for evaluation and treatment and approved by the State Department  
10 of Health Care Services. At a minimum, assessment, as defined  
11 in Section 5150.4, and evaluation, as defined in subdivision (a) of  
12 Section 5008, shall be conducted and provided on an ongoing  
13 basis. Crisis intervention, as defined in subdivision (e) of Section  
14 5008, may be provided concurrently with assessment, evaluation,  
15 or any other service.

16     (2) (A) *An individual who is authorized to take, or cause to be  
17 taken, a person into custody, as specified in paragraph (1), may  
18 authorize, in writing, emergency medical personnel, as described  
19 in the Emergency Medical Services System and the Prehospital  
20 Emergency Medical Care Personnel Act (Division 2.5 (commencing  
21 with Section 1797) of the Health and Safety Code), to transport a  
22 person to a facility that is designated by the county for evaluation  
23 and treatment and is approved by the State Department of Health  
24 Care Services, as specified in paragraph (1).*

25     (B) *The written authorization specified in subparagraph (A)  
26 shall identify the name of the person to be transported, the name  
27 and title of the individual authorizing the transport, the date and  
28 time of the transport, the address at which the person was placed  
29 in the transport vehicle, and the facility to which the person was  
30 transported by the authorized emergency medical personnel.*

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

36     (c) The professional person in charge of a facility designated  
37 by the county for evaluation and treatment, member of the  
38 attending staff, or professional person designated by the county  
39 shall assess the person to determine whether ~~he or she~~ *the person*  
40 can be properly served without being detained. If, in the judgment

1 of the professional person in charge of the facility designated by  
2 the county for evaluation and treatment, member of the attending  
3 staff, or professional person designated by the county, the person  
4 can be properly served without being detained, ~~he or she~~ *the person*  
5 shall be provided evaluation, crisis intervention, or other inpatient  
6 or outpatient services on a voluntary basis. Nothing in this  
7 subdivision shall be interpreted to prevent a peace officer from  
8 delivering individuals to a designated facility for assessment under  
9 this section. Furthermore, the assessment requirement of this  
10 subdivision shall not be interpreted to require peace officers to  
11 perform any additional duties other than those specified in Sections  
12 5150.1 and 5150.2.

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

20 (e) If, in the judgment of the professional person in charge of  
21 the facility designated by the county for evaluation and treatment,  
22 member of the attending staff, or the professional person designated  
23 by the county, the person cannot be properly served without being  
24 detained, the admitting facility shall require an application in  
25 writing stating the circumstances under which the person's  
26 condition was called to the attention of the peace officer,  
27 professional person in charge of the facility designated by the  
28 county for evaluation and treatment, member of the attending staff,  
29 or professional person designated by the county, and stating that  
30 the peace officer, professional person in charge of the facility  
31 designated by the county for evaluation and treatment, member of  
32 the attending staff, or professional person designated by the county  
33 has probable cause to believe that the person is, as a result of a  
34 mental health disorder, a danger to others, ~~or to himself or herself,~~  
35 *self or others*, or gravely disabled. The application shall also record  
36 whether the historical course of the person's mental disorder was  
37 considered in the determination, pursuant to Section 5150.05. If  
38 the probable cause is based on the statement of a person other than  
39 the peace officer, professional person in charge of the facility  
40 designated by the county for evaluation and treatment, member of

1 the attending staff, or professional person designated by the county,  
2 the person shall be liable in a civil action for intentionally giving  
3 a statement that ~~he or she~~ *the person* knows to be false. A copy of  
4 the application shall be treated as the original.

5 (f) At the time a person is taken into custody for evaluation, or  
6 within a reasonable time thereafter, unless a responsible relative  
7 or the guardian or conservator of the person is in possession of the  
8 person's personal property, the person taking ~~him or her~~ *them* into  
9 custody shall take reasonable precautions to preserve and safeguard  
10 the personal property in the possession of or on the premises  
11 occupied by the person. The person taking ~~him or her~~ *them* into  
12 custody shall then furnish to the court a report generally describing  
13 the person's property so preserved and safeguarded and its  
14 disposition, in substantially the form set forth in Section 5211,  
15 except that if a responsible relative or the guardian or conservator  
16 of the person is in possession of the person's property, the report  
17 shall include only the name of the relative or guardian or  
18 conservator and the location of the property, whereupon  
19 responsibility of the person taking ~~him or her~~ *them* into custody  
20 for that property shall terminate. As used in this section,  
21 "responsible relative" includes the spouse, parent, adult child,  
22 domestic partner, grandparent, grandchild, or adult brother or sister  
23 of the person.

24 (g) (1) Each person, at the time ~~he or she~~ *the person* is first  
25 taken into custody under this section, shall be provided, by the  
26 person who takes ~~him or her~~ *them* into custody, the following  
27 information orally in a language or modality accessible to the  
28 person. If the person cannot understand an oral advisement, the  
29 information shall be provided in writing. The information shall be  
30 in substantially the following form:

31  
32 My name is \_\_\_\_\_.  
33 I am a \_\_\_\_\_.  
34 (peace officer/mental health professional)  
35 with \_\_\_\_\_.  
36 (name of agency)  
37 You are not under criminal arrest, but I am taking you for an examination by  
38 mental health professionals at \_\_\_\_\_.  
39 \_\_\_\_\_  
40 (name of facility)

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

2  
3 (2) If taken into custody at ~~his or her~~ *their* own residence, the  
4 person shall also be provided the following information:

5  
6 You may bring a few personal items with you, which I will have  
7 to approve. Please inform me if you need assistance turning off  
8 any appliance or water. You may make a phone call and leave a  
9 note to tell your friends or family where you have been taken.

10  
11 (h) The designated facility shall keep, for each patient evaluated,  
12 a record of the advisement given pursuant to subdivision (g) which  
13 shall include all of the following:

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

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

17 (3) The date the advisement was completed.

18 (4) Whether the advisement was completed.

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

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

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

32  
33 My name is \_\_\_\_\_.

34 My position here is \_\_\_\_\_.

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

38  Harm yourself.

39  Harm someone else.

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

1 We believe this is true because

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

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

12 During these 72 hours you will be evaluated by the facility staff, and you  
13 may be given treatment, including medications. It is possible for you to be  
14 released before the end of the 72 hours. But if the staff decides that you need  
15 continued treatment you can be held for a longer period of time. If you are  
16 held longer than 72 hours, you have the right to a lawyer and a qualified  
17 interpreter and a hearing before a judge. If you are unable to pay for the lawyer,  
18 then one will be provided to you free of charge.

19 If you have questions about your legal rights, you may contact the county  
20 Patients' Rights Advocate at \_\_\_\_\_  
21 (phone number for the county Patients' Rights

22 \_\_\_\_\_.  
23 Advocacy office)

24 Your 72-hour period began \_\_\_\_\_.  
25 (date/time)

26  
27 (2) If the notice is given in a county where weekends and  
28 holidays are excluded from the 72-hour period, the patient shall  
29 be informed of this fact.

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

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

1 SECTION 1. It is the intent of the Legislature to enact  
2 legislation on involuntary treatments, as specified in the  
3 Lanterman-Petris-Short Act, and ambulance transportation services.