

Introduced by Senators Eggman and SternFebruary 17, 2021

An act to amend Sections 5256.2, 5256.6, and 5257 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 516, as introduced, Eggman. Certification for intensive treatment: review hearing.

Existing law authorizes a peace officer or a professional designated by the county to take a person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment, when the person is a danger to self or others, or is gravely disabled, as a result of a mental health disorder. Existing law authorizes a court to order the evaluation of a person who is alleged to be a danger to self or others as a result of a mental disorder, or the evaluation of a criminal defendant who appears to be a danger to self or others, or to be gravely disabled, as a result of chronic alcoholism or the use of narcotics or restricted dangerous drugs. Existing law authorizes a person who is detained or under court order pursuant to those provisions to be certified, under certain conditions, for not more than 14 days of intensive treatment related to the mental health disorder or impairment by chronic alcoholism.

Existing law requires that a certification review hearing be held, as specified, and governs the procedure for presenting evidence at the hearing. Existing law requires the hearing to be conducted by either a court-appointed commissioner or a referee, or a certification review hearing officer. Existing law authorizes the person to be detained for involuntary care, protection, and treatment related to the mental disorder or impairment by chronic alcoholism if, at the conclusion of the

certification review hearing, the person conducting the hearing finds that there is probable cause that the person certified is a danger to self or others or is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism, as specified.

This bill would authorize the evidence presented in support of the certification decision to include information on the person's medical condition and how that condition bears on certifying the person as a danger to themselves or to others or as gravely disabled. The bill would require the hearing officer to consider the information in the determination of probable cause.

Existing law requires a person's involuntary detention for intensive treatment to be terminated and the person released if the person certified is no longer a danger to self or others as a result of mental disorder or impairment by chronic alcoholism.

If the person needs continuing medical treatment after the termination of the involuntary detention, this bill would require that person to be informed that continuing medical treatment is recommended.

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

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

1 SECTION 1. Section 5256.2 of the Welfare and Institutions
2 Code is amended to read:

3 5256.2. At the certification review hearing, the evidence in
4 support of the certification decision shall be presented by a person
5 designated by the director of the facility. In addition, either the
6 district attorney or the county ~~counsel may, at his or her discretion,~~
7 *counsel, in the district attorney's or county counsel's discretion,*
8 *may elect to present evidence at the certification review hearing.*

9 *The evidence presented in support of the certification decision*
10 *may include information regarding the person's medical condition*
11 *and how that condition bears on certifying the person as a danger*
12 *to themselves or to others or as gravely disabled. The information*
13 *shall be considered by the hearing officer in the determination of*
14 *probable cause, as set forth in Section 5256.6.*

15 SEC. 2. Section 5256.6 of the Welfare and Institutions Code
16 is amended to read:

17 5256.6. If at the conclusion of the certification review hearing
18 the person conducting the hearing finds that there is probable cause

1 that the person certified is, as a result of a mental disorder or
2 impairment by chronic alcoholism, a danger to *self or others*, ~~or~~
3 ~~to himself or herself~~, or gravely disabled, then the person may be
4 detained for involuntary care, protection, and treatment related to
5 the mental disorder or impairment by chronic alcoholism pursuant
6 to Sections 5250 and 5270.15. *This section does not authorize a*
7 *patient to be detained longer than otherwise allowed for diagnosis*
8 *or treatment of their mental disorder or impairment by chronic*
9 *alcoholism.*

10 SEC. 3. Section 5257 of the Welfare and Institutions Code is
11 amended to read:

12 5257. (a) During the period of intensive treatment pursuant to
13 Section 5250 or 5270.15, the person's involuntary detention shall
14 be terminated and the person shall be released only if the
15 psychiatrist directly responsible for the person's treatment believes,
16 as a result of the psychiatrist's personal observations, that the
17 person certified no longer is, as a result of mental disorder or
18 impairment by chronic alcoholism, a danger to *self or others*, ~~or~~
19 ~~to himself or herself~~, or gravely disabled. However, in those
20 situations in which both a psychiatrist and psychologist have
21 personally evaluated or examined a person who is undergoing
22 intensive treatment and there is a collaborative treatment
23 relationship between the psychiatrist and the psychologist, either
24 the psychiatrist or psychologist may authorize the release of the
25 person, but only after they have consulted with one another. In the
26 event of a clinical or professional disagreement regarding the early
27 release of a person who is undergoing intensive treatment, the
28 person may not be released unless the facility's medical director
29 overrules the decision of the psychiatrist or psychologist opposing
30 the release. Both the psychiatrist and psychologist shall enter their
31 findings, concerns, or objections into the person's medical record.
32 If any other professional person who is authorized to release the
33 person believes the person should be released during the designated
34 period of intensive treatment, and the psychiatrist directly
35 responsible for the person's treatment objects, the matter shall be
36 referred to the medical director of the facility for the final decision.
37 However, if the medical director is not a psychiatrist, ~~he or she~~ *the*
38 *medical director* shall appoint a designee who is a psychiatrist. If
39 the matter is referred, the person shall be released during the period
40 of intensive treatment only if the psychiatrist making the final

1 decision believes, as a result of the psychiatrist’s personal
 2 observations, that the person certified no longer is, as a result of
 3 mental disorder or impairment by chronic alcoholism, a danger to
 4 others, or to himself or herself, or gravely disabled. Nothing herein
 5 shall self or others, or gravely disabled. This subdivision does not
 6 prohibit the person from remaining at the facility on a voluntary
 7 basis or prevent the facility from providing the person with
 8 appropriate referral information concerning mental health services.
 9 *If the person needs continuing medical treatment after the*
 10 *termination of the involuntary detention, the facility’s medical*
 11 *director or designee shall inform the patient that continuing*
 12 *medical treatment is recommended.*

13 (b) A person who has been certified for a period of intensive
 14 treatment pursuant to Section 5250 shall be released at the end of
 15 14 days unless the patient either:

- 16 (1) Agrees to receive further treatment on a voluntary basis.
- 17 (2) Is certified for an additional 14 days of intensive treatment
 18 pursuant to Article 4.5 (commencing with Section 5260).
- 19 (3) Is certified for an additional 30 days of intensive treatment
 20 pursuant to Article 4.7 (commencing with Section 5270.10).
- 21 (4) Is the subject of a conservatorship petition filed pursuant to
 22 Chapter 3 (commencing with Section 5350).
- 23 (5) Is the subject of a petition for postcertification treatment of
 24 a dangerous person filed pursuant to Article 6 (commencing with
 25 Section 5300).

26 (c) The amendments to this section made by ~~Assembly Bill 348~~
 27 ~~of the 2003–04 Regular Session Chapter 94 of the Statutes of 2003~~
 28 shall not be construed to revise or expand the scope of practice of
 29 psychologists, as defined in Chapter 6.6 (commencing with Section
 30 2900) of Division 2 of the Business and Professions Code.