

AMENDED IN ASSEMBLY JUNE 10, 2021

AMENDED IN SENATE APRIL 8, 2021

SENATE BILL

No. 516

Introduced by Senators Eggman and Stern

February 17, 2021

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

LEGISLATIVE COUNSEL'S DIGEST

SB 516, as amended, 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 considered in the certification review hearing to include information on the person’s medical condition, as defined, and how that condition bears on certifying the person as a danger to themselves or to others or as gravely disabled.

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 5256.6 of the Welfare and Institutions
2 Code is amended to read:
3 5256.6. (a) If at the conclusion of the certification review
4 hearing the person conducting the hearing finds that there is
5 probable cause that the person certified is, as a result of a mental
6 disorder or impairment by chronic alcoholism, a danger to self or
7 others, or gravely disabled, then the person may be detained for
8 involuntary care, protection, and treatment related to the mental
9 disorder or impairment by chronic alcoholism pursuant to Sections
10 5250 and 5270.15.
11 (b) The evidence considered in the certification review hearing
12 may include information regarding the person’s medical condition
13 and how that condition bears on certifying the person as a danger
14 to themselves or to others or as gravely disabled.
15 (c) (1) For purposes of this section, “medical condition” means
16 a serious chronic or acute physical ailment for which, in the
17 evidence submitted as part of the certification process, a

1 psychiatrist, with documentation of consultation with an
2 appropriate physician, certifies that all of the following apply:

3 (A) Without treatment, the medical condition poses a serious
4 risk that the person, within six months, will suffer great bodily
5 harm or death.

6 (B) The treatment is consistent with generally accepted standards
7 of practice, the person will receive the treatment, as necessary, if
8 detained pursuant to Section 5250 or 5270.15, and, upon release,
9 the person will be provided with a treatment plan and directed to
10 services that will facilitate appropriate treatment.

11 (C) During the process of detention pursuant to Section 5150,
12 a physician advised the person on the purpose, nature, risks, and
13 benefits of the medical condition and the treatment, consistent with
14 the requirements for obtaining informed consent under Section
15 5326.2.

16 (D) If the medical condition is a chronic condition that existed
17 before the person was detained pursuant to Section 5150, the person
18 was consistently unable to comply with treatment due to their
19 mental health condition.

20 (E) If released into the community, the person, due to their
21 mental health condition at the time of certification, is likely to
22 remain consistently unable to comply with the treatment due to
23 either of the following:

24 (i) Despite the advice given, as described in subparagraph (C),
25 the person remains unable to comply with the treatment because
26 they cannot achieve a rudimentary understanding of the nature of
27 the medical condition and continue to lack insight into the need
28 for treatment.

29 (ii) The person understands the nature of the medical condition
30 and wishes to comply with the treatment, but, due to the person's
31 mental health condition, has a demonstrated history of being
32 consistently unable to comply with the treatment, or a treatment
33 for a similar medical condition, and this pattern is likely to recur
34 if the person is released into the community.

35 (2) "Medical condition" does not include any of the following:

36 (A) A condition that predominantly involves a substance use
37 disorder.

38 (B) Exposure to potential harms resulting from the person's
39 personal circumstances, including, but not limited to, lack of health
40 care insurance, poverty, or homelessness.

1 (C) Medical information that is more than four years old.

2 (d) This section does not authorize a patient to be detained
3 longer than otherwise allowed for diagnosis or treatment of their
4 mental disorder or impairment by chronic alcoholism.

5 (e) *This section does not alter or modify the admission policies*
6 *of psychiatric health facilities pursuant to Sections 77113 and*
7 *77135 of Title 22 of the California Code of Regulations.*

8 (f) *This section does not alter or modify the coverage*
9 *responsibilities of Medi-Cal managed care plans or county mental*
10 *health plans pursuant to the Medicaid state plan nor the*
11 *memorandum of understanding between county mental health*
12 *plans and Medi-Cal managed care plans on the role and*
13 *responsibility to arrange and pay for medical care pursuant to*
14 *Sections 1810.370 and 1810.415 of Title 9 of the California Code*
15 *of Regulations.*

16 SEC. 2. Section 5257 of the Welfare and Institutions Code is
17 amended to read:

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

1 the person's treatment objects, the matter shall be referred to the
2 medical director of the facility for the final decision. However, if
3 the medical director is not a psychiatrist, the medical director shall
4 appoint a designee who is a psychiatrist. If the matter is referred,
5 the person shall be released during the period of intensive treatment
6 only if the psychiatrist making the final decision believes, as a
7 result of the psychiatrist's personal observations, that the person
8 certified no longer is, as a result of mental disorder or impairment
9 by chronic alcoholism, a danger to self or others, or gravely
10 disabled. This subdivision does not prohibit the person from
11 remaining at the facility on a voluntary basis or prevent the facility
12 from providing the person with appropriate referral information
13 concerning mental health services. If the person needs continuing
14 medical treatment after the termination of the involuntary detention,
15 the facility's medical director or designee shall inform the patient
16 that continuing medical treatment is recommended.

17 (b) A person who has been certified for a period of intensive
18 treatment pursuant to Section 5250 shall be released at the end of
19 14 days unless the patient either:

20 (1) Agrees to receive further treatment on a voluntary basis.

21 (2) Is certified for an additional 14 days of intensive treatment
22 pursuant to Article 4.5 (commencing with Section 5260).

23 (3) Is certified for an additional 30 days of intensive treatment
24 pursuant to Article 4.7 (commencing with Section 5270.10).

25 (4) Is the subject of a conservatorship petition filed pursuant to
26 Chapter 3 (commencing with Section 5350).

27 (5) Is the subject of a petition for postcertification treatment of
28 a dangerous person filed pursuant to Article 6 (commencing with
29 Section 5300).

30 (c) The amendments to this section made by Chapter 94 of the
31 Statutes of 2003 shall not be construed to revise or expand the
32 scope of practice of psychologists, as defined in Chapter 6.6
33 (commencing with Section 2900) of Division 2 of the Business
34 and Professions Code.

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