



SOLANO COUNTY

Legislative Committee Meeting

Committee
Supervisor Erin Hannigan (Chair)
Supervisor Linda J. Seifert

Staff
Michelle Heppner

May 4, 2015

1:30 pm

Solano County Administration Center
Sixth Floor Conference Center, Room 6003
675 Texas Street
Fairfield, CA 94533

AGENDA

- I. **Approval of the Agenda**
- II. **Public Comment (Items not on the agenda)**
- III. **Update from Solano County Legislative Delegation** (Legislative representatives)
- IV. **Discussion of Federal Bills and consider making a recommendation** (Waterman & Associates)
 - Update on FY 16 Budget Resolution
 - FY 16 Appropriations Update
 - Energy-Water
 - Transportation-Housing and Urban Development
- V. **Report on State Budget and Legislation and consider making a recommendation for a position on legislation** (Paul Yoder)

Health & Social Services

[SB 12](#) ([Beall D](#)) Foster youth. **(Page 2)**

Current Analysis: 04/13/2015 [Senate Judiciary \(text 4/7/2015\)](#) **(Page 42)**

[AB 216](#) ([Garcia, Cristina D](#)) Product sales to minors: vapor products. **(Page 50)**

Current Analysis: 04/28/2015 [Assembly Appropriations \(text 4/13/2015\)](#) **(Page 52)**

[AB 1300](#) ([Ridley-Thomas D](#)) Mental health: involuntary commitment. **(Page 53)**

Current Analysis: 04/26/2015 [Asm Comm Committee On Judiciary \(text \)](#) **(Page 93)**

CSAC Letter of Concerns **(Page 108)**

Education

[AB 13](#) ([Chávez R](#)) Public postsecondary education: community colleges: exemptions from nonresident tuition. **(Page 111)**

Current Analysis: 03/24/2015 [Assembly Veterans Affairs \(text 3/4/2015\)](#) **(Page 117)**

Solano County Bill Tracking Matrix **(Page 121)**

- VI. **Next Meeting – May 18, 2015 at 1:30 pm**
- VII. **Adjourn**

AMENDED IN SENATE APRIL 22, 2015

AMENDED IN SENATE APRIL 7, 2015

AMENDED IN SENATE MARCH 17, 2015

AMENDED IN SENATE FEBRUARY 4, 2015

SENATE BILL

No. 12

Introduced by Senator Beall

(Coauthors: Senators Block, Hertzberg, and Wieckowski)

(Coauthors: Assembly Members Chu, *Gipson*, *Gordon*, Maienschein, Rodriguez, and Waldron)

December 1, 2014

An act to amend Sections 303, 388, 388.1, 450, 607.2, 11400, 11401, 11403, and 11405 of the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as amended, Beall. Foster youth.

Existing law, the California Fostering Connections to Success Act, revises and expands the scope of various programs relating to cash assistance and other services to and for the benefit of certain foster and adopted children, and other children who have been placed in out-of-home care, including children who receive Aid to Families with Dependent Children-Foster Care (AFDC-FC), Adoption Assistance Program, California Work Opportunity and Responsibility to Kids (CalWORKs), and Kinship Guardianship Assistance Payment (Kin-GAP) benefits. Among other provisions, the act extends specified foster care benefits to youth up to 21 years of age, if specified conditions are met.

Existing law defines a nonminor dependent for these purposes as a foster child who is a current dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court pursuant to a voluntary reentry agreement, and in accordance with a transitional independent living case plan who has attained 18 years of age while under an order of foster care placement by the juvenile court and is not older than 21 years of age. Existing law defines a nonminor former dependent or ward as a person who meets these criteria who reached 18 years of age while subject to an order for foster care placement, for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court.

This bill would revise the definition of a nonminor dependent and former nonminor dependent to include a person who has not attained 21 years of age, if he or she was subject to an order for foster care placement at any time after reaching 14 years of age, was adjudged a ward of the court on the basis of criminal activity, and if the last custody order of the court did not order his or her return to the physical custody of his or her parent or legal guardian, and would also include a person who has not attained 21 years of age, if he or she ~~was subject to an order for foster care placement~~, was adjudged a ward of the court on the basis of criminal activity, *was subject to an order for foster care placement at the time the petition to adjudge him or her a ward of the court was filed*, and was in secure confinement *when he or she attained 18 years of age*. This bill would make conforming changes to allow a court to assume or resume dependency jurisdiction or transition jurisdiction over a nonminor who satisfies this criteria. Because the bill would expand the application of the above county administered programs, the bill would impose a state-mandated local program.

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 these statutory provisions.

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

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

1 SECTION 1. Section 303 of the Welfare and Institutions Code
2 is amended to read:

3 303. (a) The court may retain jurisdiction over any person who
4 is found to be a ward or a dependent child of the juvenile court
5 until the ward or dependent child attains 21 years of age.

6 (b) The court shall have within its jurisdiction any nonminor
7 dependent, as defined in subdivision (v) of Section 11400. The
8 court may terminate its dependency, delinquency, or transition
9 jurisdiction over the nonminor dependent between the time the
10 nonminor reaches the age of majority and 21 years of age. If the
11 court terminates dependency, delinquency, or transition
12 jurisdiction, the nonminor dependent shall remain under the general
13 jurisdiction of the court in order to allow for a petition under
14 subdivision (e) of Section 388.

15 (c) A nonminor who has not yet attained 21 years of age and
16 who meets any of the following conditions may petition the court
17 pursuant to subdivision (e) of Section 388 to resume dependency
18 jurisdiction over himself or herself or to assume transition
19 jurisdiction over himself or herself pursuant to Section 450:

20 (1) He or she ~~existed~~ *exited* foster care at or after the age of
21 majority.

22 (2) He or she was subject to an order for foster care placement
23 at any time after reaching 14 years of age, was adjudged a ward
24 of the court pursuant to Section 725, and for whom the last custody
25 order of the court did not order his or her return to the physical
26 custody of his or her parent or legal guardian.

27 (3) He or she ~~was subject to an order for foster care placement,~~
28 *was adjudged a ward of the court pursuant to Section 725, was*
29 *subject to an order for foster care placement at the time the petition*
30 *to adjudge him or her a ward of the court pursuant to Section 725*
31 *was filed, and was held in secure confinement when he or she*
32 *attained 18 years of age.*

33 (d) (1) Nothing in this code, including, but not limited to,
34 Sections 340, 366.27, and 369.5, shall be construed to provide
35 legal custody of a person who has attained 18 years of age to the
36 county welfare or probation department or to otherwise abrogate
37 any other rights that a person who has attained 18 years of age
38 may have as an adult under California law. A nonminor dependent

1 shall retain all of his or her legal decisionmaking authority as an
2 adult. The nonminor shall enter into a mutual agreement for
3 placement, as described in subdivision (u) of Section 11400, unless
4 the nonminor dependent is incapable of making an informed
5 agreement, or a voluntary reentry agreement, as described in
6 subdivision (z) of Section 11400, for placement and care in which
7 the nonminor consents to placement and care in a setting supervised
8 by, and under the responsibility of, the county child welfare
9 services department, the county probation department, or Indian
10 tribe, tribal organization, or consortium of tribes that entered into
11 an agreement pursuant to Section 10553.1.

12 (2) A nonminor dependent who remains under delinquency
13 jurisdiction in order to complete his or her rehabilitative goals and
14 is under a foster care placement order is not required to complete
15 the mutual agreement as described in subdivision (u) of Section
16 11400. His or her adult decisionmaking authority may be limited
17 by and subject to the care, supervision, custody, conduct, and
18 maintenance orders as described in Section 727.

19 (e) Unless otherwise specified, the rights of a dependent child
20 and the responsibilities of the county welfare or probation
21 department, or tribe, and other entities, toward the child and family,
22 shall also apply to nonminor dependents.

23 SEC. 2. Section 388 of the Welfare and Institutions Code is
24 amended to read:

25 388. (a) (1) Any parent or other person having an interest in
26 a child who is a dependent child of the juvenile court or a nonminor
27 dependent as defined in subdivision (v) of Section 11400, or the
28 child himself or herself or the nonminor dependent through a
29 properly appointed guardian may, upon grounds of change of
30 circumstance or new evidence, petition the court in the same action
31 in which the child was found to be a dependent child of the juvenile
32 court or in which a guardianship was ordered pursuant to Section
33 360 for a hearing to change, modify, or set aside any order of court
34 previously made or to terminate the jurisdiction of the court. The
35 petition shall be verified and, if made by a person other than the
36 child or the nonminor dependent shall state the petitioner's
37 relationship to or interest in the child or the nonminor dependent
38 and shall set forth in concise language any change of circumstance
39 or new evidence that is alleged to require the change of order or
40 termination of jurisdiction.

1 (2) When any party, including a child who is a dependent of the
2 juvenile court, petitions the court prior to an order terminating
3 parental rights, to modify the order that reunification services were
4 not needed pursuant to paragraphs (4), (5), and (6) of subdivision
5 (b) of Section 361.5, or to modify any orders related to custody or
6 visitation of the subject child, and the court orders a hearing
7 pursuant to subdivision (d), the court shall modify the order that
8 reunification services were not needed pursuant to paragraphs (4),
9 (5), and (6) of subdivision (b) of Section 361.5, or any orders
10 related to the custody or visitation of the child for whom
11 reunification services were not ordered pursuant to paragraphs (4),
12 (5), and (6) of subdivision (b) of Section 361.5, only if the court
13 finds by clear and convincing evidence that the proposed change
14 is in the best interests of the child.

15 (b) (1) Any person, including a child or a nonminor dependent
16 who is a dependent of the juvenile court, may petition the court to
17 assert a relationship as a sibling related by blood, adoption, or
18 affinity through a common legal or biological parent to a child
19 who is, or is the subject of a petition for adjudication as, a
20 dependent of the juvenile court, and may request visitation with
21 the dependent child, placement with or near the dependent child,
22 or consideration when determining or implementing a case plan
23 or permanent plan for the dependent child or make any other
24 request for an order which may be shown to be in the best interest
25 of the dependent child.

26 (2) A child or nonminor dependent who is a dependent of the
27 juvenile court may petition the court to assert a relationship as a
28 sibling related by blood, adoption, or affinity through a common
29 legal or biological parent to a child who is in the physical custody
30 of a common legal or biological parent, and may request visitation
31 with the nondependent sibling in parental custody.

32 (3) Pursuant to subdivision (b) of Section 16002, a request for
33 sibling visitation may be granted unless it is determined by the
34 court that sibling visitation is contrary to the safety and well-being
35 of any of the siblings.

36 (4) The court may appoint a guardian ad litem to file the petition
37 for a dependent child asserting a sibling relationship pursuant to
38 this subdivision if the court determines that the appointment is
39 necessary for the best interests of the dependent child. The petition
40 shall be verified and shall set forth the following:

1 (A) Through which parent he or she is related to the sibling.

2 (B) Whether he or she is related to the sibling by blood,
3 adoption, or affinity.

4 (C) The request or order that the petitioner is seeking.

5 (D) Why that request or order is in the best interest of the
6 dependent child.

7 (c) (1) Any party, including a child who is a dependent of the
8 juvenile court, may petition the court, prior to the hearing set
9 pursuant to subdivision (f) of Section 366.21 for a child described
10 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
11 361.5, or prior to the hearing set pursuant to subdivision (e) of
12 Section 366.21 for a child described by subparagraph (B) or (C)
13 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
14 court-ordered reunification services provided under subdivision
15 (a) of Section 361.5 only if one of the following conditions exists:

16 (A) It appears that a change of circumstance or new evidence
17 exists that satisfies a condition set forth in subdivision (b) or (e)
18 of Section 361.5 justifying termination of court-ordered
19 reunification services.

20 (B) The action or inaction of the parent or guardian creates a
21 substantial likelihood that reunification will not occur, including,
22 but not limited to, the parent's or guardian's failure to visit the
23 child, or the failure of the parent or guardian to participate regularly
24 and make substantive progress in a court-ordered treatment plan.

25 (2) In determining whether the parent or guardian has failed to
26 visit the child or participate regularly or make progress in the
27 treatment plan, the court shall consider factors that include but are
28 not limited to, the parent's or guardian's incarceration,
29 institutionalization, detention by the United States Department of
30 Homeland Security, deportation, or participation in a court-ordered
31 residential substance abuse treatment program.

32 (3) The court shall terminate reunification services during the
33 above-described time periods only upon a finding by a
34 preponderance of evidence that reasonable services have been
35 offered or provided, and upon a finding of clear and convincing
36 evidence that one of the conditions in subparagraph (A) or (B) of
37 paragraph (1) exists.

38 (4) Any party, including a nonminor dependent, as defined in
39 subdivision (v) of Section 11400, may petition the court prior to
40 the review hearing set pursuant to subdivision (d) of Section 366.31

1 to terminate the continuation of court-ordered family reunification
2 services for a nonminor dependent who has attained 18 years of
3 age. The court shall terminate family reunification services to the
4 parent or guardian if the nonminor dependent or parent or guardian
5 are not in agreement that the continued provision of court-ordered
6 family reunification services is in the best interests of the nonminor
7 dependent.

8 (5) If the court terminates reunification services, it shall order
9 that a hearing pursuant to Section 366.26 be held within 120 days.
10 On and after January 1, 2012, a hearing pursuant to Section 366.26
11 shall not be ordered if the child is a nonminor dependent. The court
12 may order a nonminor dependent who is otherwise eligible to
13 AFDC-FC benefits pursuant to Section 11403 to remain in a
14 planned, permanent living arrangement.

15 (d) If it appears that the best interests of the child or the
16 nonminor dependent may be promoted by the proposed change of
17 order, modification of reunification services, custody, or visitation
18 orders concerning a child for whom reunification services were
19 not ordered pursuant to paragraphs (4), (5), and (6) of subdivision
20 (b) of Section 361.5, recognition of a sibling relationship,
21 termination of jurisdiction, or clear and convincing evidence
22 supports revocation or termination of court-ordered reunification
23 services, the court shall order that a hearing be held and shall give
24 prior notice, or cause prior notice to be given, to the persons and
25 in the manner prescribed by Section 386, and, in those instances
26 in which the manner of giving notice is not prescribed by those
27 sections, then in the manner the court prescribes.

28 (e) (1) A nonminor who meets one of the criteria in
29 subparagraph (A) to (C), inclusive, or the county child welfare
30 services, probation department, or tribal placing agency on behalf
31 of the nonminor, may petition the court in the same action in which
32 the child was found to be a dependent or delinquent child of the
33 juvenile court, for a hearing to resume the dependency jurisdiction
34 over a former dependent or to assume or resume transition
35 jurisdiction over a former delinquent ward pursuant to Section
36 450. The petition shall be filed within the period that the nonminor
37 is of the age described in this paragraph. If the nonminor has
38 completed the voluntary reentry agreement, as described in
39 subdivision (z) of Section 11400, with the placing agency, the
40 agency shall file the petition on behalf of the nonminor within 15

1 judicial days of the date the agreement was signed unless the
2 nonminor elects to file the petition at an earlier date. This
3 subdivision applies to a nonminor who meets any of the following
4 criteria:

5 (A) He or she attained 18 years of age while subject to an order
6 for foster care placement and who has not attained 21 years of age
7 for whom the court has dismissed dependency jurisdiction pursuant
8 to Section 391, or delinquency jurisdiction pursuant to Section
9 607.2, or transition jurisdiction pursuant to Section 452, but has
10 retained general jurisdiction under subdivision (b) of Section 303.

11 (B) He or she has not attained 21 years of age, was subject to
12 an order for foster care placement at any time after reaching 14
13 years of age, was adjudged a ward of the court pursuant to Section
14 725, and for whom the last custody order of the court did not order
15 his or her return to the physical custody of his or her parent or
16 legal guardian.

17 (C) He or she has not attained 21 years of age, ~~was subject to~~
18 ~~an order for foster care placement~~, was adjudged a ward of the
19 court pursuant to Section 725, *was subject to an order for foster*
20 *care placement at the time the petition to adjudge him or her a*
21 *ward of the court pursuant to Section 725 was filed*, and was held
22 in secure confinement *when he or she attained 18 years of age*.

23 (2) (A) The petition to resume jurisdiction may be filed in the
24 juvenile court that retains general jurisdiction under subdivision
25 (b) of Section 303, or the petition may be submitted to the juvenile
26 court in the county where the youth resides and forwarded to the
27 juvenile court that retained general jurisdiction and filed with that
28 court. The juvenile court having general jurisdiction under Section
29 303 shall receive the petition from the court where the petition
30 was submitted within five court days of its submission, if the
31 petition is filed in the county of residence. The juvenile court that
32 retained general jurisdiction shall order that a hearing be held
33 within 15 judicial days of the date the petition was filed if there is
34 a prima facie showing that the nonminor satisfies the following
35 criteria:

36 (i) He or she meets the criteria of either subparagraph (A), (B),
37 or (C) of paragraph (1).

38 (ii) He or she intends to satisfy at least one of the conditions set
39 forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
40 Section 11403.

1 (iii) He or she wants assistance either in maintaining or securing
2 appropriate supervised placement, or is in need of immediate
3 placement and agrees to supervised placement pursuant to the
4 voluntary reentry agreement as described in subdivision (z) of
5 Section 11400.

6 (B) Upon ordering a hearing, the court shall give prior notice,
7 or cause prior notice to be given, to the persons and by the means
8 prescribed by Section 386, except that notice to parents or former
9 guardians shall not be provided unless the nonminor requests, in
10 writing on the face of the petition, notice to the parents or former
11 guardians.

12 (3) The Judicial Council, by January 1, 2012, shall adopt rules
13 of court to allow for telephonic appearances by nonminor former
14 dependents or delinquents in these proceedings, and for telephonic
15 appearances by nonminor dependents in any proceeding in which
16 the nonminor dependent is a party, and he or she declines to appear
17 and elects a telephonic appearance.

18 (4) Prior to the hearing on a petition to resume dependency
19 jurisdiction or to assume or resume transition jurisdiction, the court
20 shall order the county child welfare or probation department to
21 prepare a report for the court addressing whether the nonminor
22 intends to satisfy at least one of the criteria set forth in subdivision
23 (b) of Section 11403. When the recommendation is for the
24 nonminor dependent to be placed in a setting where minor
25 dependents also reside, the results of a background check of the
26 petitioning nonminor conducted pursuant to Section 16504.5, may
27 be used by the placing agency to determine appropriate placement
28 options for the nonminor. The existence of a criminal conviction
29 is not a bar to eligibility for reentry or resumption of dependency
30 jurisdiction or the assumption or resumption of transition
31 jurisdiction over a nonminor.

32 (5) (A) The court shall resume dependency jurisdiction over a
33 former dependent or assume or resume transition jurisdiction over
34 a former delinquent ward pursuant to Section 450, and order that
35 the nonminor's placement and care be under the responsibility of
36 the county child welfare services department, the probation
37 department, tribe, consortium of tribes, or tribal organization, if
38 the court finds all of the following:

39 (i) The nonminor meets the criteria of either subparagraph (A),
40 (B), or (C) of paragraph (1) of subdivision (e).

1 (ii) The nonminor has not attained the age limit described in
2 paragraph (1).

3 (iii) Reentry and remaining in foster care are in the nonminor's
4 best interests.

5 (iv) The nonminor intends to satisfy, and agrees to satisfy, at
6 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
7 of subdivision (b) of Section 11403, and demonstrates his or her
8 agreement to placement in a supervised setting under the placement
9 and care responsibility of the placing agency and to satisfy the
10 criteria by signing the voluntary reentry agreement as described
11 in subdivision (z) of Section 11400.

12 (B) In no event shall the court grant a continuance that would
13 cause the hearing to resume dependency jurisdiction or to assume
14 or resume transition jurisdiction to be completed more than 120
15 days after the date the petition was filed.

16 (C) The agency made responsible for the nonminor's placement
17 and care pursuant to subparagraph (A) shall prepare a new
18 transitional independent living case plan within 60 calendar days
19 from the date the nonminor signed the voluntary reentry agreement
20 as described in subdivision (z) of Section 11400 and submit it to
21 the court for the review hearing under Section 366.31, to be held
22 within 70 days of the resumption of dependency jurisdiction or
23 assumption or resumption of transition jurisdiction. In no event
24 shall the review hearing under Section 366.3 be held more than
25 170 calendar days from the date the nonminor signed the voluntary
26 reentry agreement.

27 SEC. 3. Section 388.1 of the Welfare and Institutions Code is
28 amended to read:

29 388.1. (a) On and after January 1, 2014, a nonminor who has
30 not attained 21 years of age may petition the court in which he or
31 she was previously found to be a dependent or delinquent child of
32 the juvenile court for a hearing to determine whether to assume
33 dependency jurisdiction over the nonminor, if he or she meets any
34 of the following descriptions:

35 (1) He or she is a nonminor former dependent, as defined in
36 subdivision (aa) of Section 11400, who received aid after attaining
37 18 years of age under Kin-GAP pursuant to Article 4.5
38 (commencing with Section 11360) or Article 4.7 (commencing
39 with Section 11385) of Chapter 2 of Part 3 of Division 9, or
40 pursuant to subdivision (e) of Section 11405, and whose former

1 guardian or guardians died after the nonminor attained 18 years
2 of age, but before he or she attains 21 years of age.

3 (2) He or she is a nonminor former dependent, as defined in
4 subdivision (aa) of Section 11400, who received aid after attaining
5 18 years of age under Kin-GAP pursuant to Article 4.5
6 (commencing with Section 11360) or Article 4.7 (commencing
7 with Section 11385) of Chapter 2 of Part 3 of Division 9, or
8 pursuant to subdivision (e) of Section 11405, and whose former
9 guardian or guardians no longer provide ongoing support to, and
10 no longer receive aid on behalf of, the nonminor after the nonminor
11 attained 18 years of age, but before he or she attains 21 years of
12 age.

13 (3) He or she is a nonminor who received adoption assistance
14 payments after attaining 18 years of age pursuant to Chapter 2.1
15 (commencing with Section 16115) of Part 4 of Division 9 and his
16 or her adoptive parent or parents died after the nonminor attained
17 18 years of age, but before he or she attains 21 years of age.

18 (4) He or she is a nonminor who received adoption assistance
19 payments after attaining 18 years of age pursuant to Chapter 2.1
20 (commencing with Section 16115) of Part 4 of Division 9 and his
21 or her adoptive parent or parents no longer provide ongoing support
22 to, and no longer receive aid on behalf of, the nonminor after the
23 nonminor attained 18 years of age, but before he or she attains 21
24 years of age.

25 (5) He or she has not attained 21 years of age, was subject to
26 an order for foster care placement at any time after reaching 14
27 years of age, was adjudged a ward of the court pursuant to Section
28 725, and for whom the last custody order of the court did not order
29 his or her return to the physical custody of his or her parent or
30 legal guardian.

31 (6) He or she has not attained 21 years of age, ~~was subject to~~
32 ~~an order for foster care placement~~, was adjudged a ward of the
33 court pursuant to Section 725, *was subject to an order for foster*
34 *care placement at the time the petition to adjudge him or her a*
35 *ward of the court pursuant to Section 725 was filed*, and was held
36 in secure confinement *when he or she attained 18 years of age*.

37 (b) (1) The petition to assume jurisdiction may be filed in either
38 of the following:

39 (A) The juvenile court that established the guardianship pursuant
40 to Section 360, Section 366.26, or subdivision (d) of Section 728.

1 (B) The juvenile court that had jurisdiction over the minor or
2 nonminor dependent when his or her adoption was finalized.

3 (2) A nonminor described in subdivision (a) may submit a
4 petition to assume dependency jurisdiction to the juvenile court
5 in the county where he or she resides. A petition submitted pursuant
6 to this paragraph shall, within five days of submission, be
7 forwarded to the court that had jurisdiction over the child at the
8 time of the guardianship or adoption. The clerk of the court that
9 had jurisdiction over the child at the time of the guardianship or
10 adoption shall file the petition within one judicial day of receipt.

11 (c) (1) The juvenile court in which the petition was filed shall
12 order a hearing to be held within 15 judicial days of the date the
13 petition was filed if there is a prima facie showing that the
14 nonminor satisfies all of the following criteria:

15 (A) He or she was a minor under juvenile court jurisdiction at
16 the time of the establishment of a guardianship pursuant to Section
17 360, Section 366.26, or subdivision (d) of Section 728, or he or
18 she was a minor or nonminor dependent when his or her adoption
19 was finalized.

20 (B) (i) His or her guardian or guardians, or adoptive parent or
21 parents, as applicable, died after the nonminor attained 18 years
22 of age, but before he or she attained 21 years of age.

23 (ii) His or her guardian or guardians, or adoptive parent or
24 parents, as applicable, no longer provide ongoing support to, and
25 no longer receive aid on behalf of, the nonminor after the nonminor
26 attained 18 years of age, but before he or she attained 21 years of
27 age, and it may be in the nonminor's best interest for the court to
28 assume dependency jurisdiction.

29 (C) He or she intends to satisfy at least one of the conditions
30 set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
31 Section 11403.

32 (D) He or she is requesting assistance in maintaining or securing
33 appropriate supervised placement, or needs immediate placement
34 and agrees to supervised placement pursuant to the voluntary
35 reentry agreement described in subdivision (z) of Section 11400.

36 (2) Upon ordering a hearing, the court shall give prior notice,
37 or cause prior notice to be given, to the nonminor, the appropriate
38 child welfare agency or probation department, and any other person
39 requested by the nonminor in the petition.

1 (3) Pursuant to applicable rules of court, the juvenile court shall
2 allow for telephonic appearances by the nonminor in these
3 proceedings and in any proceeding in which the nonminor
4 dependent is a party.

5 (4) Prior to the hearing, the court shall order the county child
6 welfare or probation department to prepare a report for the court
7 that addresses both of the following:

8 (A) The nonminor's plans to satisfy at least one of the criteria
9 set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
10 Section 11403.

11 (B) The appropriate placement setting for the nonminor. When
12 the recommendation is for the nonminor to be placed in a setting
13 where minor dependents also reside, the results of a background
14 check of the petitioning nonminor conducted pursuant to Section
15 16504.5 may be used by the placing agency to determine
16 appropriate placement options for him or her.

17 (5) The court shall assume dependency jurisdiction over a former
18 dependent or ward, and order his or her placement and care be
19 under the responsibility of the county child welfare services
20 department, the probation department, tribe, consortium of tribes,
21 or tribal organization, if the court finds all of the following:

22 (A) The nonminor was a minor under juvenile court jurisdiction
23 at the time of the establishment of a guardianship pursuant to
24 Section 360, Section 366.26, or subdivision (d) of Section 728, or
25 he or she was a dependent at the time his or her adoption was
26 finalized.

27 (B) The nonminor's guardian or guardians, or adoptive parent
28 or parents, as applicable, have died, or no longer provide ongoing
29 support to, and no longer receive aid on behalf of, the nonminor,
30 and it is in the nonminor's best interests for the court to assume
31 dependency jurisdiction.

32 (C) The nonminor has not attained 21 years of age.

33 (D) Reentry and remaining in foster care are in the nonminor's
34 best interests.

35 (E) The nonminor intends to satisfy, and agrees to satisfy, at
36 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
37 of subdivision (b) of Section 11403, and demonstrates his or her
38 agreement to placement in a supervised setting under the placement
39 and care responsibility of the placing agency by signing the

1 voluntary reentry agreement described in subdivision (z) of Section
2 11400.

3 (6) The existence of a criminal conviction is not a bar to
4 eligibility for reentry to foster care or assumption of dependency
5 jurisdiction over a nonminor.

6 (7) The court shall not grant a continuance that would cause the
7 hearing to be completed more than 120 days after the date the
8 petition is filed.

9 (d) The agency made responsible for the nonminor's placement
10 and care pursuant to paragraph (5) of subdivision (c) shall prepare
11 a new transitional independent living case plan within 60 calendar
12 days of the date the nonminor signs the voluntary reentry agreement
13 and shall submit the plan to the court for the review hearing
14 specified in Section 366.31, to be held within 70 days of the
15 assumption of dependency jurisdiction. The review hearing under
16 Section 366.31 shall not be held more than 170 calendar days from
17 the date the nonminor signs the voluntary reentry agreement.

18 (e) (1) A nonminor described in subdivision (a) may enter into
19 a voluntary reentry agreement as defined in subdivision (z) of
20 Section 11400 in order to establish eligibility for foster care
21 benefits under subdivision (e) of Section 11401 before or after
22 filing a petition to assume dependency jurisdiction. If the nonminor
23 enters into a voluntary reentry agreement prior to filing the petition,
24 the nonminor is entitled to placement and supervision pending the
25 court's assumption of jurisdiction.

26 (2) If the nonminor completes a voluntary reentry agreement
27 with a placing agency, the placing agency shall file the petition to
28 assume dependency jurisdiction on behalf of the nonminor within
29 15 judicial days of the date the agreement is signed, unless the
30 nonminor elects to file the petition at an earlier date.

31 SEC. 4. Section 450 of the Welfare and Institutions Code is
32 amended to read:

33 450. (a) A minor or nonminor who satisfies all of the following
34 criteria is within the transition jurisdiction of the juvenile court:

35 (1) (A) The minor or nonminor meets one of the following
36 criteria:

37 (i) The minor is a ward who is older than 17 years and 5 months
38 of age and younger than 18 years of age and in foster care
39 placement.

1 (ii) The nonminor is a ward in foster care placement who was
2 a ward subject to an order for foster care placement at any time
3 after the youth attained 18 years of age and who has not attained
4 21 years of age.

5 (iii) The nonminor was subject to an order for foster care
6 placement at any time after reaching 14 years of age, was adjudged
7 a ward of the court pursuant to Section 725, and for whom the last
8 custody order of the court did not order his or her return to the
9 physical custody of his or her parent or legal guardian.

10 (iv) The nonminor was ~~subject to an order for foster care~~
11 ~~placement,~~ was adjudged a ward of the court pursuant to Section
12 725, *was subject to an order for foster care placement at the time*
13 *the petition to adjudge him or her a ward of the court pursuant to*
14 *Section 725 was filed,* and was held in secure confinement *when*
15 *he or she attained 18 years of age.*

16 (B) Notwithstanding subparagraph (A), the nonminor is a ward
17 who has been receiving aid pursuant to Article 5 (commencing
18 with Section 11400) of Chapter 2 of Part 3 of Division 9 and who
19 may continue to receive aid under the applicable program, provided
20 that the nonminor dependent continues to meet all other applicable
21 eligibility requirements as specified in Section 11403.

22 (2) The ward meets either of the following conditions:

23 (A) The ward was removed from the physical custody of his or
24 her parents or legal guardian, adjudged to be a ward of the juvenile
25 court under Section 725, and ordered into foster care placement
26 as a ward.

27 (B) The ward was removed from the custody of his or her
28 parents or legal guardian as a dependent of the court with an order
29 for foster care placement as a dependent in effect at the time the
30 court adjudged him or her to be a ward of the juvenile court under
31 Section 725.

32 (3) The rehabilitative goals of the minor or nonminor, as set
33 forth in the case plan, have been met, and juvenile court jurisdiction
34 over the minor or nonminor as a ward is no longer required.

35 (4) (A) If the ward is a minor, reunification services have been
36 terminated; the matter has not been set for a hearing for termination
37 of parental rights pursuant to Section 727.3 or for the establishment
38 of guardianship pursuant to Section 728; the return of the child to
39 the physical custody of the parents or legal guardian would create
40 a substantial risk of detriment to the child's safety, protection, or

1 physical or emotional well-being; and the minor has indicated an
2 intent to sign a mutual agreement, as described in subdivision (u)
3 of Section 11400, with the responsible agency for placement in a
4 supervised setting as a nonminor dependent.

5 (B) If the ward is a nonminor, he or she has signed a mutual
6 agreement, as described in subdivision (u) of Section 11400, with
7 the responsible agency for placement in a supervised setting as a
8 nonminor dependent or has signed a voluntary reentry agreement,
9 as described in subdivision (z) of Section 11400 for placement in
10 a supervised setting as a nonminor dependent. A runaway and
11 homeless youth shelter licensed by the State Department of Social
12 Services pursuant to Section 1502.35 of the Health and Safety
13 Code shall not be a placement option pursuant to this section.

14 (b) A minor who is subject to the court's transition jurisdiction
15 shall be referred to as a transition dependent.

16 (c) A youth subject to the court's transition jurisdiction who is
17 18 years of age or older shall be referred to as a nonminor
18 dependent.

19 SEC. 5. Section 607.2 of the Welfare and Institutions Code is
20 amended to read:

21 607.2. (a) The court shall hold a hearing prior to terminating
22 jurisdiction over a ward who satisfies any of the following criteria:

23 (1) Is a minor subject to an order for foster care placement
24 described in Section 11402 as a ward who has not previously been
25 subject to the jurisdiction of the court as a result of a petition filed
26 pursuant to Section 325.

27 (2) Is a nonminor who attained 18 years of age while subject to
28 an order for foster care placement described in Section 11402 and
29 who has not attained 21 years of age.

30 (3) Is a nonminor who was subject to an order for foster care
31 placement at any time after reaching 14 years of age, was adjudged
32 a ward of the court pursuant to Section 725, and for whom the last
33 custody order of the court did not order his or her return to the
34 physical custody of his or her parent or legal guardian.

35 (4) Is a nonminor who ~~was subject to an order for foster care~~
36 ~~placement~~, was adjudged a ward of the court pursuant to Section
37 725, *was subject to an order for foster care placement at the time*
38 *the petition to adjudge him or her a ward of the court pursuant to*
39 *Section 725 was filed*, and was held in secure confinement *when*
40 *he or she attained 18 years of age.*

1 (5) Is a ward who was subject to an order for foster care
2 placement described in Section 11402 as a dependent of the court
3 at the time the court adjudged the child to be a ward of the court
4 under Section 725.

5 (b) At a hearing during which termination of jurisdiction over
6 a ward described in subdivision (a) is being considered, the court
7 shall take one of the following actions:

8 (1) Modify its jurisdiction from delinquency jurisdiction to
9 transition jurisdiction, if the court finds the ward is a person
10 described in Section 450.

11 (2) (A) For a ward who was not previously subject to the
12 jurisdiction of the court as a result of a petition filed pursuant to
13 Section 325, order the probation department or the ward's attorney
14 to submit an application to the child welfare services department
15 pursuant to Section 329 to declare the minor a dependent of the
16 court and modify the court's jurisdiction from delinquency
17 jurisdiction to dependency jurisdiction, if the court finds all of the
18 following:

19 (i) The ward is a minor.

20 (ii) The ward does not come within the description in Section
21 450, but jurisdiction as a ward may no longer be required.

22 (iii) The ward appears to come within the description of Section
23 300 and cannot be returned home safely.

24 (B) The court shall set a hearing within 20 judicial days of the
25 date of the order described in subparagraph (A) to review the child
26 welfare services department's decision and may either affirm its
27 decision not to file a petition pursuant to Section 300 or order the
28 child welfare services department to file a petition pursuant to
29 Section 300.

30 (3) Vacate the order terminating jurisdiction over the minor as
31 a dependent of the court, resume jurisdiction pursuant to Section
32 300 based on the prior petition filed pursuant to Section 325, and
33 terminate the court's jurisdiction over the minor as a ward, if the
34 minor was subject to an order for foster care placement described
35 in Section 11402 as a dependent of the court at the time the court
36 adjudged the minor to be a ward and assumed jurisdiction over
37 the minor under Section 725.

38 (4) Continue its delinquency jurisdiction over a ward pursuant
39 to Section 303 as a nonminor dependent, as defined in subdivision

40 (v) of Section 11400, who is eligible to remain in foster care

1 pursuant to Section 11403, if the ward is a nonminor and the court
2 did not modify its jurisdiction as described in Section 450, unless
3 the court finds that after reasonable and documented efforts, the
4 ward cannot be located or does not wish to become a nonminor
5 dependent. In making this finding and prior to entering an order
6 terminating its delinquency jurisdiction, the court shall ensure that
7 the ward has had an opportunity to confer with his or her counsel
8 and has been informed of his or her options, including the right to
9 reenter foster care placement by completing a voluntary reentry
10 agreement as described in subdivision (z) of Section 11400 and to
11 file a petition pursuant to subdivision (e) of Section 388 for the
12 court to assume or resume transition jurisdiction over him or her
13 pursuant to Section 450. The fact that a ward declines to be a
14 nonminor dependent does not restrict the authority of the court to
15 maintain delinquency jurisdiction pursuant to Section 607.

16 (5) Continue its delinquency jurisdiction.

17 (6) Terminate its delinquency jurisdiction if the ward does not
18 come within the provisions of paragraphs (1) to (4), inclusive.

19 (c) If the court modifies jurisdiction, its order shall comply with
20 the requirements of subdivision (f) of Section 241.1.

21 (d) This section does not change the requirements of Section
22 727.2 or 727.3 with respect to reunification of minors with their
23 families or the establishment of an alternative permanent plan for
24 minors for whom reunification is not pursued.

25 SEC. 6. Section 11400 of the Welfare and Institutions Code is
26 amended to read:

27 11400. For purposes of this article, the following definitions
28 shall apply:

29 (a) "Aid to Families with Dependent Children-Foster Care
30 (AFDC-FC)" means the aid provided on behalf of needy children
31 in foster care under the terms of this division.

32 (b) "Case plan" means a written document that, at a minimum,
33 specifies the type of home in which the child shall be placed, the
34 safety of that home, and the appropriateness of that home to meet
35 the child's needs. It shall also include the agency's plan for
36 ensuring that the child receive proper care and protection in a safe
37 environment, and shall set forth the appropriate services to be
38 provided to the child, the child's family, and the foster parents, in
39 order to meet the child's needs while in foster care, and to reunify
40 the child with the child's family. In addition, the plan shall specify

1 the services that will be provided or steps that will be taken to
2 facilitate an alternate permanent plan if reunification is not possible.

3 (c) “Certified family home” means a family residence certified
4 by a licensed foster family agency and issued a certificate of
5 approval by that agency as meeting licensing standards, and used
6 only by that foster family agency for placements.

7 (d) “Family home” means the family residence of a licensee in
8 which 24-hour care and supervision are provided for children.

9 (e) “Small family home” means any residential facility, in the
10 licensee’s family residence, which provides 24-hour care for six
11 or fewer foster children who have mental disorders or
12 developmental or physical disabilities and who require special care
13 and supervision as a result of their disabilities.

14 (f) “Foster care” means the 24-hour out-of-home care provided
15 to children whose own families are unable or unwilling to care for
16 them, and who are in need of temporary or long-term substitute
17 parenting.

18 (g) “Foster family agency” means any individual or organization
19 engaged in the recruiting, certifying, and training of, and providing
20 professional support to, foster parents, or in finding homes or other
21 places for placement of children for temporary or permanent care
22 who require that level of care as an alternative to a group home.
23 Private foster family agencies shall be organized and operated on
24 a nonprofit basis.

25 (h) “Group home” means a nondetention privately operated
26 residential home, organized and operated on a nonprofit basis only,
27 of any capacity, or a nondetention licensed residential care home
28 operated by the County of San Mateo with a capacity of up to 25
29 beds, that accepts children in need of care and supervision in a
30 group home, as defined by paragraph (13) of subdivision (a) of
31 Section 1502 of the Health and Safety Code.

32 (i) “Periodic review” means review of a child’s status by the
33 juvenile court or by an administrative review panel, that shall
34 include a consideration of the safety of the child, a determination
35 of the continuing need for placement in foster care, evaluation of
36 the goals for the placement and the progress toward meeting these
37 goals, and development of a target date for the child’s return home
38 or establishment of alternative permanent placement.

39 (j) “Permanency planning hearing” means a hearing conducted
40 by the juvenile court in which the child’s future status, including

1 whether the child shall be returned home or another permanent
2 plan shall be developed, is determined.

3 (k) "Placement and care" refers to the responsibility for the
4 welfare of a child vested in an agency or organization by virtue of
5 the agency or organization having (1) been delegated care, custody,
6 and control of a child by the juvenile court, (2) taken responsibility,
7 pursuant to a relinquishment or termination of parental rights on
8 a child, (3) taken the responsibility of supervising a child detained
9 by the juvenile court pursuant to Section 319 or 636, or (4) signed
10 a voluntary placement agreement for the child's placement; or to
11 the responsibility designated to an individual by virtue of his or
12 her being appointed the child's legal guardian.

13 (l) "Preplacement preventive services" means services that are
14 designed to help children remain with their families by preventing
15 or eliminating the need for removal.

16 (m) "Relative" means an adult who is related to the child by
17 blood, adoption, or affinity within the fifth degree of kinship,
18 including stepparents, stepsiblings, and all relatives whose status
19 is preceded by the words "great," "great-great," or "grand" or the
20 spouse of any of these persons even if the marriage was terminated
21 by death or dissolution.

22 (n) "Nonrelative extended family member" means an adult
23 caregiver who has an established familial or mentoring relationship
24 with the child, as described in Section 362.7.

25 (o) "Voluntary placement" means an out-of-home placement
26 of a child by (1) the county welfare department, probation
27 department, or Indian tribe that has entered into an agreement
28 pursuant to Section 10553.1, after the parents or guardians have
29 requested the assistance of the county welfare department and have
30 signed a voluntary placement agreement; or (2) the county welfare
31 department licensed public or private adoption agency, or the
32 department acting as an adoption agency, after the parents have
33 requested the assistance of either the county welfare department,
34 the licensed public or private adoption agency, or the department
35 acting as an adoption agency for the purpose of adoption planning,
36 and have signed a voluntary placement agreement.

37 (p) "Voluntary placement agreement" means a written agreement
38 between either the county welfare department, probation
39 department, or Indian tribe that has entered into an agreement
40 pursuant to Section 10553.1, licensed public or private adoption

1 agency, or the department acting as an adoption agency, and the
2 parents or guardians of a child that specifies, at a minimum, the
3 following:

4 (1) The legal status of the child.

5 (2) The rights and obligations of the parents or guardians, the
6 child, and the agency in which the child is placed.

7 (q) “Original placement date” means the most recent date on
8 which the court detained a child and ordered an agency to be
9 responsible for supervising the child or the date on which an agency
10 assumed responsibility for a child due to termination of parental
11 rights, relinquishment, or voluntary placement.

12 (r) (1) “Transitional housing placement provider” means an
13 organization licensed by the State Department of Social Services
14 pursuant to Section 1559.110 of the Health and Safety Code, to
15 provide transitional housing to foster children at least 16 years of
16 age and not more than 18 years of age, and nonminor dependents,
17 as defined in subdivision (v). A transitional housing placement
18 provider shall be privately operated and organized on a nonprofit
19 basis.

20 (2) Prior to licensure, a provider shall obtain certification from
21 the applicable county, in accordance with Section 16522.1.

22 (s) “Transitional Housing Program-Plus” means a provider
23 certified by the applicable county, in accordance with subdivision
24 (c) of Section 16522, to provide transitional housing services to
25 former foster youth who have exited the foster care system on or
26 after their 18th birthday.

27 (t) “Whole family foster home” means a new or existing family
28 home, approved relative caregiver or nonrelative extended family
29 member’s home, the home of a nonrelated legal guardian whose
30 guardianship was established pursuant to Section 360 or 366.26,
31 certified family home, or a host family home placement of a
32 transitional housing placement provider, that provides foster care
33 for a minor or nonminor dependent parent and his or her child,
34 and is specifically recruited and trained to assist the minor or
35 nonminor dependent parent in developing the skills necessary to
36 provide a safe, stable, and permanent home for his or her child.
37 The child of the minor or nonminor dependent parent need not be
38 the subject of a petition filed pursuant to Section 300 to qualify
39 for placement in a whole family foster home.

40 (u) “Mutual agreement” means any of the following:

1 (1) A written voluntary agreement of consent for continued
2 placement and care in a supervised setting between a minor or, on
3 and after January 1, 2012, a nonminor dependent, and the county
4 welfare services or probation department or tribal agency
5 responsible for the foster care placement, that documents the
6 nonminor's continued willingness to remain in supervised
7 out-of-home placement under the placement and care of the
8 responsible county, tribe, consortium of tribes, or tribal
9 organization that has entered into an agreement with the state
10 pursuant to Section 10553.1, remain under the jurisdiction of the
11 juvenile court as a nonminor dependent, and report any change of
12 circumstances relevant to continued eligibility for foster care
13 payments, and that documents the nonminor's and social worker's
14 or probation officer's agreement to work together to facilitate
15 implementation of the mutually developed supervised placement
16 agreement and transitional independent living case plan.

17 (2) An agreement, as described in paragraph (1), between a
18 nonminor former dependent or ward in receipt of Kin-GAP
19 payments under Article 4.5 (commencing with Section 11360) or
20 Article 4.7 (commencing with Section 11385), and the agency
21 responsible for the Kin-GAP benefits, provided that the nonminor
22 former dependent or ward satisfies the conditions described in
23 Section 11403.01, or one or more of the conditions described in
24 paragraphs (1) to (5), inclusive, of subdivision (b) of Section
25 11403. For purposes of this paragraph and paragraph (3),
26 "nonminor former dependent or ward" has the same meaning as
27 described in subdivision (aa).

28 (3) An agreement, as described in paragraph (1), between a
29 nonminor former dependent or ward in receipt of AFDC-FC
30 payments under subdivision (e) or (f) of Section 11405 and the
31 agency responsible for the AFDC-FC benefits, provided that the
32 nonminor former dependent or ward described in subdivision (e)
33 of Section 11405 satisfies one or more of the conditions described
34 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section
35 11403, and the nonminor described in subdivision (f) of Section
36 11405 satisfies the secondary school or equivalent training or
37 certificate program conditions described in that subdivision.

38 (v) "Nonminor dependent" means a foster child, as described
39 in Section 675(8)(B) of Title 42 of the United States Code under
40 the federal Social Security Act who is a current dependent child

1 or ward of the juvenile court, or who is a nonminor under the
2 transition jurisdiction of the juvenile court, as described in Section
3 450, and who satisfies all of the following criteria:

4 (1) He or she meets one of the following criteria:

5 (A) He or she attained 18 years of age while subject to an order
6 for foster care placement described in Section 11402 and has not
7 attained 21 years of age.

8 (B) He or she has not attained 21 years of age, was subject to
9 an order for foster care placement at any time after reaching 14
10 years of age, was adjudged a ward of the court pursuant to Section
11 725, and for whom the last custody order of the court did not order
12 his or her return to the physical custody of his or her parent or
13 legal guardian.

14 (C) He or she has not attained 21 years of age, ~~was subject to~~
15 ~~an order for foster care placement~~, was adjudged a ward of the
16 court pursuant to Section 725, *was subject to an order for foster*
17 *care placement at the time the petition to adjudge him or her a*
18 *ward of the court pursuant to Section 725 was filed*, and was held
19 in secure confinement *when he or she attained 18 years of age*.

20 (2) He or she is in foster care under the placement and care
21 responsibility of the county welfare department, county probation
22 department, Indian tribe, consortium of tribes, or tribal organization
23 that entered into an agreement pursuant to Section 10553.1.

24 (3) He or she has a transitional independent living case plan
25 pursuant to Section 475(8) of the federal Social Security Act (42
26 U.S.C. Sec. 675(8)), as contained in the federal Fostering
27 Connections to Success and Increasing Adoptions Act of 2008
28 (Public Law 110-351), as described in Section 11403.

29 (w) "Supervised independent living placement" means, on and
30 after January 1, 2012, an independent supervised setting, as
31 specified in a nonminor dependent's transitional independent living
32 case plan, in which the youth is living independently, pursuant to
33 Section 472(c)(2) of the federal Social Security Act (42 U.S.C.
34 Sec. 672(c)(2)).

35 (x) "Supervised independent living setting," pursuant to Section
36 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec.
37 672(c)(2)), includes both a supervised independent living
38 placement, as defined in subdivision (w), and a residential housing
39 unit certified by the transitional housing placement provider
40 operating a Transitional Housing Placement-Plus Foster Care

1 program, as described in paragraph (2) of subdivision (a) of Section
2 16522.1.

3 (y) “Transitional independent living case plan” means, on or
4 after January 1, 2012, a child’s case plan submitted for the last
5 review hearing held before he or she reaches 18 years of age or
6 the nonminor dependent’s case plan, updated every six months,
7 that describes the goals and objectives of how the nonminor will
8 make progress in the transition to living independently and assume
9 incremental responsibility for adult decisionmaking, the
10 collaborative efforts between the nonminor and the social worker,
11 probation officer, or Indian tribal placing entity and the supportive
12 services as described in the transitional independent living plan
13 (TILP) to ensure active and meaningful participation in one or
14 more of the eligibility criteria described in paragraphs (1) to (5),
15 inclusive, of subdivision (b) of Section 11403, the nonminor’s
16 appropriate supervised placement setting, and the nonminor’s
17 permanent plan for transition to living independently, which
18 includes maintaining or obtaining permanent connections to caring
19 and committed adults, as set forth in paragraph (16) of subdivision
20 (f) of Section 16501.1.

21 (z) “Voluntary reentry agreement” means a written voluntary
22 agreement between a former dependent child or ward or a former
23 nonminor dependent, who has had juvenile court jurisdiction
24 terminated pursuant to Section 391, 452, or 607.2, and the county
25 welfare or probation department or tribal placing entity that
26 documents the nonminor’s desire and willingness to reenter foster
27 care, to be placed in a supervised setting under the placement and
28 care responsibility of the placing agency, the nonminor’s desire,
29 willingness, and ability to immediately participate in one or more
30 of the conditions of paragraphs (1) to (5), inclusive, of subdivision
31 (b) of Section 11403, the nonminor’s agreement to work
32 collaboratively with the placing agency to develop his or her
33 transitional independent living case plan within 60 days of reentry,
34 the nonminor’s agreement to report any changes of circumstances
35 relevant to continued eligibility for foster care payments, and (1)
36 the nonminor’s agreement to participate in the filing of a petition
37 for juvenile court jurisdiction as a nonminor dependent pursuant
38 to subdivision (e) of Section 388 within 15 judicial days of the
39 signing of the agreement and the placing agency’s efforts and
40 supportive services to assist the nonminor in the reentry process,

1 or (2) if the nonminor meets the definition of a nonminor former
2 dependent or ward, as described in subdivision (aa), the nonminor's
3 agreement to return to the care and support of his or her former
4 juvenile court-appointed guardian and meet the eligibility criteria
5 for AFDC-FC pursuant to subdivision (e) of Section 11405.

6 (aa) "Nonminor former dependent or ward" means, on and after
7 January 1, 2012, any of the following:

8 (1) A nonminor who attained 18 years of age while subject to
9 an order for foster care placement described in Section 11402 who
10 has not attained 21 years of age, and for whom dependency,
11 delinquency, or transition jurisdiction has been terminated, and
12 who is still under the general jurisdiction of the court.

13 (2) A nonminor who is over 18 years of age and, while a minor,
14 was a dependent child or ward of the juvenile court when the
15 guardianship was established pursuant to Section 360 or 366.26,
16 or subdivision (d), of Section 728 and the juvenile court
17 dependency or wardship was dismissed following the establishment
18 of the guardianship.

19 (3) A nonminor who was subject to an order for foster care
20 placement at any time after reaching 14 years of age, was adjudged
21 a ward of the court pursuant to Section 725, and for whom the last
22 custody order of the court did not order his or her return to the
23 physical custody of his or her parent or legal guardian.

24 (4) A nonminor who ~~was subject to an order for foster care~~
25 ~~placement~~, was adjudged a ward of the court pursuant to Section
26 *725, was subject to an order for foster care placement at the time*
27 *that the petition to adjudge him or her a ward of the court pursuant*
28 *to Section 725 was filed, and was held in secure confinement when*
29 *he or she attained 18 years of age.*

30 (ab) "Runaway and homeless youth shelter" means a type of
31 group home, as defined in paragraph (14) of subdivision (a) of
32 Section 1502 of the Health and Safety Code, that is not an eligible
33 placement option under Sections 319, 361.2, 450, and 727, and
34 that is not eligible for AFDC-FC funding pursuant to subdivision
35 (c) of Section 11402 or Section 11462.

36 (ac) "Transition dependent" is a minor between 17 years and 5
37 months and 18 years of age who is subject to the court's transition
38 jurisdiction under Section 450.

39 SEC. 7. Section 11401 of the Welfare and Institutions Code is
40 amended to read:

1 11401. Aid in the form of AFDC-FC shall be provided under
2 this chapter on behalf of any child under 18 years of age and to
3 any nonminor dependent who meets the conditions of any of the
4 following subdivisions:

5 (a) The child has been relinquished, for purposes of adoption,
6 to a licensed adoption agency, or the department, or the parental
7 rights of either or both of his or her parents have been terminated
8 after an action under the Family Code has been brought by a
9 licensed adoption agency or the department, provided that the
10 licensed adoption agency or the department, if responsible for
11 placement and care, provides to those children all services as
12 required by the department to children in foster care.

13 (b) The child has been removed from the physical custody of
14 his or her parent, relative, or guardian as a result of a voluntary
15 placement agreement or a judicial determination that continuance
16 in the home would be contrary to the child's welfare and that, if
17 the child was placed in foster care, reasonable efforts were made,
18 consistent with Chapter 5 (commencing with Section 16500) of
19 Part 4, to prevent or eliminate the need for removal of the child
20 from his or her home and to make it possible for the child to return
21 to his or her home, and any of the following applies:

22 (1) The child has been adjudged a dependent child of the court
23 on the grounds that he or she is a person described by Section 300.

24 (2) The child has been adjudged a ward of the court on the
25 grounds that he or she is a person described by Sections 601 and
26 602 or the nonminor is under the transition jurisdiction of the
27 juvenile court pursuant to Section 450.

28 (3) The child has been detained under a court order, pursuant
29 to Section 319 or 636, that remains in effect.

30 (4) The child's or nonminor's dependency jurisdiction, or
31 transition jurisdiction pursuant to Section 450, has resumed
32 pursuant to Section 387, or subdivision (a) or (e) of Section 388.

33 (c) The child has been voluntarily placed by his or her parent
34 or guardian pursuant to Section 11401.1.

35 (d) The child is living in the home of a nonrelated legal guardian.

36 (e) The child is a nonminor dependent who is placed pursuant
37 to a mutual agreement as set forth in subdivision (u) of Section
38 11400, under the placement and care responsibility of the county
39 child welfare services department, an Indian tribe that entered into
40 an agreement pursuant to Section 10553.1, or the county probation

1 department, or the child is a nonminor dependent reentering foster
2 care placement pursuant to a voluntary agreement, as set forth in
3 subdivision (z) of Section 11400.

4 (f) The child has been placed in foster care under the federal
5 Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.). Sections
6 11402, 11404, and 11405 shall not be construed as limiting
7 payments to Indian children, as defined in the federal Indian Child
8 Welfare Act, placed in accordance with that act.

9 (g) To be eligible for federal financial participation, the
10 conditions described in paragraph (1), (2), (3), or (4) shall be
11 satisfied:

12 (1) (A) The child meets the conditions of subdivision (b).

13 (B) The child has been deprived of parental support or care for
14 any of the reasons set forth in Section 11250.

15 (C) The child has been removed from the home of a relative as
16 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
17 Regulations, as amended.

18 (D) The requirements of Sections 671 and 672 of Title 42 of
19 the United States Code, as amended, have been met.

20 (2) (A) The child meets the requirements of subdivision (h).

21 (B) The requirements of Sections 671 and 672 of Title 42 of
22 the United States Code, as amended, have been met.

23 (C) This paragraph shall be implemented only if federal financial
24 participation is available for the children described in this
25 paragraph.

26 (3) (A) The child has been removed from the custody of his or
27 her parent, relative, or guardian as a result of a voluntary placement
28 agreement or a judicial determination that continuance in the home
29 would be contrary to the child's welfare and that, if the child was
30 placed in foster care, reasonable efforts were made, consistent with
31 Chapter 5 (commencing with Section 16500) of Part 4, to prevent
32 or eliminate the need for removal of the child from his or her home
33 and to make it possible for the child to return to his or her home,
34 or the child is a nonminor dependent who satisfies the removal
35 criteria in Section 472(a)(2)(A)(i) of the federal Social Security
36 Act (42 U.S.C. Sec. 672(a)(2)(A)(i)) and agrees to the placement
37 and care responsibility of the placing agency by signing the
38 voluntary reentry agreement, as set forth in subdivision (z) of
39 Section 11400, and any of the following applies:

- 1 (i) The child has been adjudged a dependent child of the court
2 on the grounds that he or she is a person described by Section 300.
- 3 (ii) The child has been adjudged a ward of the court on the
4 grounds that he or she is a person described by Sections 601 and
5 602 or the nonminor is under the transition jurisdiction of the
6 juvenile court, pursuant to Section 450.
- 7 (iii) The child has been detained under a court order, pursuant
8 to Section 319 or 636, that remains in effect.
- 9 (iv) The child's or nonminor's dependency jurisdiction, or
10 transition jurisdiction pursuant to Section 450, has resumed
11 pursuant to Section 387, or subdivision (a) or (e) of Section 388.
- 12 (B) The child has been placed in an eligible foster care
13 placement, as set forth in Section 11402.
- 14 (C) The requirements of Sections 671 and 672 of Title 42 of
15 the United States Code have been satisfied.
- 16 (D) This paragraph shall be implemented only if federal financial
17 participation is available for the children described in this
18 paragraph.
- 19 (4) With respect to a nonminor dependent, in addition to meeting
20 the conditions specified in paragraph (1), the requirements of
21 Section 675(8)(B) of Title 42 of the United States Code have been
22 satisfied. With respect to a former nonminor dependent who
23 reenters foster care placement by signing the voluntary reentry
24 agreement, as set forth in subdivision (z) of Section 11400, the
25 requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of
26 Title 42 of the United States Code are satisfied based on the
27 nonminor's status as a child-only case, without regard to the
28 parents, legal guardians, or others in the assistance unit in the home
29 from which the nonminor was originally removed.
- 30 (h) The child meets all of the following conditions:
- 31 (1) The child has been adjudged to be a dependent child or ward
32 of the court on the grounds that he or she is a person described in
33 Section 300, 601, or 602.
- 34 (2) The child's parent also has been adjudged to be a dependent
35 child or nonminor dependent of the court on the grounds that he
36 or she is a person described by Section 300, 450, 601, or 602 and
37 is receiving benefits under this chapter.
- 38 (3) The child is placed in the same licensed or approved foster
39 care facility in which his or her parent is placed and the child's
40 parent is receiving reunification services with respect to that child.

1 SEC. 8. Section 11403 of the Welfare and Institutions Code is
2 amended to read:

3 11403. (a) It is the intent of the Legislature to exercise the
4 option afforded states under Section 475(8) (42 U.S.C. Sec.
5 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
6 federal Social Security Act, as contained in the federal Fostering
7 Connections to Success and Increasing Adoptions Act of 2008
8 (Public Law 110-351), to receive federal financial participation
9 for nonminor dependents of the juvenile court who satisfy the
10 conditions of subdivision (b), consistent with their transitional
11 independent living case plan. These nonminor dependents shall
12 be eligible to receive support up to 21 years of age, consistent with
13 their transitional independent living case plan. It is the intent of
14 the Legislature both at the time of initial determination of the
15 nonminor dependent's eligibility and throughout the time the
16 nonminor dependent is eligible for aid pursuant to this section,
17 that the social worker or probation officer or Indian tribal placing
18 entity and the nonminor dependent shall work together to ensure
19 the nonminor dependent's ongoing eligibility. All case planning
20 shall be a collaborative effort between the nonminor dependent
21 and the social worker, probation officer, or Indian tribe, with the
22 nonminor dependent assuming increasing levels of responsibility
23 and independence.

24 (b) A nonminor dependent receiving aid pursuant to this chapter,
25 who satisfies the age criteria set forth in subdivision (a), shall meet
26 the legal authority for placement and care by being under a foster
27 care placement order by the juvenile court, or the voluntary reentry
28 agreement as set forth in subdivision (z) of Section 11400, and is
29 otherwise eligible for AFDC-FC payments pursuant to Section
30 11401. A nonminor who satisfies the age criteria set forth in
31 subdivision (a), and who is otherwise eligible, shall continue to
32 receive CalWORKs payments pursuant to Section 11253 or, as a
33 nonminor former dependent or ward, aid pursuant to Kin-GAP
34 under Article 4.5 (commencing with Section 11360) or Article 4.7
35 (commencing with Section 11385) or adoption assistance payments
36 as specified in Chapter 2.1 (commencing with Section 16115) of
37 Part 4. Effective January 1, 2012, a nonminor former dependent
38 child or ward of the juvenile court who is receiving AFDC-FC
39 benefits pursuant to Section 11405 and who satisfies the criteria
40 set forth in subdivision (a) shall be eligible to continue to receive

1 aid as long as the nonminor is otherwise eligible for AFDC-FC
2 benefits under this subdivision. This subdivision shall apply when
3 one or more of the following conditions exist:

4 (1) The nonminor is completing secondary education or a
5 program leading to an equivalent credential.

6 (2) The nonminor is enrolled in an institution which provides
7 postsecondary or vocational education.

8 (3) The nonminor is participating in a program or activity
9 designed to promote, or remove barriers to employment.

10 (4) The nonminor is employed for at least 80 hours per month.

11 (5) The nonminor is incapable of doing any of the activities
12 described in paragraphs (1) to (4), inclusive, due to a medical
13 condition, and that incapability is supported by regularly updated
14 information in the case plan of the nonminor. The requirement to
15 update the case plan under this section shall not apply to nonminor
16 former dependents or wards in receipt of Kin-GAP program or
17 Adoption Assistance Program payments.

18 (c) The county child welfare or probation department, Indian
19 tribe, consortium of tribes, or tribal organization that has entered
20 into an agreement pursuant to Section 10553.1, shall work together
21 with a nonminor dependent who is in foster care on his or her 18th
22 birthday and thereafter or a nonminor former dependent receiving
23 aid pursuant to Section 11405, to satisfy one or more of the
24 conditions described in paragraphs (1) to (5), inclusive, of
25 subdivision (b) and shall certify the nonminor's applicable
26 condition or conditions in the nonminor's six-month transitional
27 independent living case plan update, and provide the certification
28 to the eligibility worker and to the court at each six-month case
29 plan review hearing for the nonminor dependent. Relative
30 guardians who receive Kin-GAP payments and adoptive parents
31 who receive adoption assistance payments shall be responsible for
32 reporting to the county welfare agency that the nonminor does not
33 satisfy at least one of the conditions described in subdivision (b).
34 The social worker, probation officer, or tribal entity shall verify
35 and obtain assurances that the nonminor dependent continues to
36 satisfy at least one of the conditions in paragraphs (1) to (5),
37 inclusive, of subdivision (b) at each six-month transitional
38 independent living case plan update. The six-month case plan
39 update shall certify the nonminor's eligibility pursuant to
40 subdivision (b) for the next six-month period. During the six-month

1 certification period, the payee and nonminor shall report any
2 change in placement or other relevant changes in circumstances
3 that may affect payment. The nonminor dependent, or nonminor
4 former dependent receiving aid pursuant to subdivision (e) of
5 Section 11405, shall be informed of all due process requirements,
6 in accordance with state and federal law, prior to an involuntary
7 termination of aid, and shall simultaneously be provided with a
8 written explanation of how to exercise his or her due process rights
9 and obtain referrals to legal assistance. Any notices of action
10 regarding eligibility shall be sent to the nonminor dependent or
11 former dependent, his or her counsel, as applicable, and the placing
12 worker, in addition to any other payee. Payments of aid pursuant
13 to Kin-GAP under Article 4.5 (commencing with Section 11360)
14 or Article 4.7 (commencing with Section 11385), adoption
15 assistance payments as specified in Chapter 2.1 (commencing with
16 Section 16115) of Part 4, or aid pursuant to subdivision (e) of
17 Section 11405 that are made on behalf of a nonminor former
18 dependent shall terminate subject to the terms of the agreements.
19 Subject to federal approval of amendments to the state plan, aid
20 payments may be suspended and resumed based on changes of
21 circumstances that affect eligibility. Nonminor former dependents,
22 as identified in paragraph (2) of subdivision (aa) of Section 11400,
23 are not eligible for reentry under subdivision (e) of Section 388 as
24 nonminor dependents under the jurisdiction of the juvenile court,
25 unless (1) the nonminor former dependent was receiving aid
26 pursuant to Kin-GAP under Article 4.5 (commencing with Section
27 11360) or Article 4.7 (commencing with Section 11385), or the
28 nonminor former dependent was receiving aid pursuant to
29 subdivision (e) of Section 11405, or the nonminor was receiving
30 adoption assistance payments as specified in Chapter 2.1
31 (commencing with Section 16115) of Part 3 and (2) the nonminor's
32 former guardian or adoptive parent dies, or no longer provides
33 ongoing support to, and no longer receive aid on behalf of, the
34 nonminor after the nonminor turns 18 years of age but before the
35 nonminor turns 21 years of age. Nonminor former dependents
36 requesting the resumption of AFDC-FC payments pursuant to
37 subdivision (e) of Section 11405 shall complete the applicable
38 portions of the voluntary reentry agreement, as described in
39 subdivision (z) of Section 11400.

1 (d) A nonminor dependent may receive all of the payment
2 directly provided that the nonminor is living independently in a
3 supervised placement, as described in subdivision (w) of Section
4 11400, and that both the youth and the agency responsible for the
5 foster care placement have signed a mutual agreement, as defined
6 in subdivision (u) of Section 11400, if the youth is capable of
7 making an informed agreement, that documents the continued need
8 for supervised out-of-home placement, and the nonminor's and
9 social worker's or probation officer's agreement to work together
10 to facilitate implementation of the mutually developed supervised
11 placement agreement and transitional independent living case plan.

12 (e) Eligibility for aid under this section shall not terminate until
13 the nonminor dependent attains the age criteria, as set forth in
14 subdivision (a), but aid may be suspended when the nonminor
15 dependent no longer resides in an eligible facility, as described in
16 Section 11402, or is otherwise not eligible for AFDC-FC benefits
17 under Section 11401, or terminated at the request of the nonminor,
18 or after a court terminates dependency jurisdiction pursuant to
19 Section 391, delinquency jurisdiction pursuant to Section 607.2,
20 or transition jurisdiction pursuant to Section 452. AFDC-FC
21 benefits to nonminor dependents, may be resumed at the request
22 of the nonminor by completing a voluntary reentry agreement
23 pursuant to subdivision (z) of Section 11400, before or after the
24 filing of a petition filed pursuant to subdivision (e) of Section 388
25 after a court terminates dependency or transitional jurisdiction
26 pursuant to Section 391, or delinquency jurisdiction pursuant to
27 Section 607.2. The county welfare or probation department or
28 Indian tribal entity that has entered into an agreement pursuant to
29 Section 10553.1 shall complete the voluntary reentry agreement
30 with the nonminor who agrees to satisfy the criteria of the
31 agreement, as described in subdivision (z) of Section 11400. The
32 county welfare department or tribal entity shall establish a new
33 child-only Title IV-E eligibility determination based on the
34 nonminor's completion of the voluntary reentry agreement pursuant
35 to Section 11401. The beginning date of aid for either federal or
36 state AFDC-FC for a reentering nonminor who is placed in foster
37 care is the date the voluntary reentry agreement is signed or the
38 nonminor is placed, whichever is later. The county welfare
39 department, county probation department, or tribal entity shall

1 provide a nonminor dependent who wishes to continue receiving
2 aid with the assistance necessary to meet and maintain eligibility.

3 (f) (1) The county having jurisdiction of the nonminor
4 dependent shall remain the county of payment under this section
5 regardless of the youth's physical residence. Nonminor former
6 dependents receiving aid pursuant to subdivision (e) of Section
7 11405 shall be paid by their county of residence. Counties may
8 develop courtesy supervision agreements to provide case
9 management and independent living services by the county of
10 residence pursuant to the nonminor dependent's transitional
11 independent living case plan. Placements made out of state are
12 subject to the applicable requirements of the Interstate Compact
13 on Placement of Children, pursuant to Part 5 (commencing with
14 Section 7900) of Division 12 of the Family Code.

15 (2) The county welfare department, county probation
16 department, or tribal entity shall notify all foster youth who attain
17 16 years of age and are under the jurisdiction of that county or
18 tribe, including those receiving Kin-GAP, and AAP, of the
19 existence of the aid prescribed by this section.

20 (3) The department shall seek any waiver to amend its Title
21 IV-E state plan with the Secretary of the United States Department
22 of Health and Human Services necessary to implement this section.

23 (g) (1) Subject to paragraph (3), a county shall pay the
24 nonfederal share of the cost of extending aid pursuant to this
25 section to eligible nonminor dependents who have reached 18
26 years of age and who are under the jurisdiction of the county,
27 including AFDC-FC payments pursuant to Section 11401, aid
28 pursuant to Kin-GAP under Article 4.7 (commencing with Section
29 11385), adoption assistance payments as specified in Chapter 2.1
30 (commencing with Section 16115) of Part 4, and aid pursuant to
31 Section 11405 for nonminor dependents who are residing in the
32 county as provided in paragraph (1) of subdivision (f). A county
33 shall contribute to the CalWORKs payments pursuant to Section
34 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
35 with Section 11360) at the statutory sharing ratios in effect on
36 January 1, 2012.

37 (2) Subject to paragraph (3), a county shall pay the nonfederal
38 share of the cost of providing permanent placement services
39 pursuant to subdivision (c) of Section 16508 and administering
40 the Aid to Families with Dependent Children Foster Care program

1 pursuant to Section 15204.9. For purposes of budgeting, the
2 department shall use a standard for the permanent placement
3 services that is equal to the midpoint between the budgeting
4 standards for family maintenance services and family reunification
5 services.

6 (3) (A) (i) Notwithstanding any other law, a county's required
7 total contribution pursuant to paragraphs (1) and (2) shall not
8 exceed the amount of savings in Kin-GAP assistance grant
9 expenditures realized by the county from the receipt of federal
10 funds due to the implementation of Article 4.7 (commencing with
11 Section 11385), and the amount of funding specifically included
12 in the Protective Services Subaccount within the Support Services
13 Account within the Local Revenue Fund 2011, plus any associated
14 growth funding from the Support Services Growth Subaccount
15 within the Sales and Use Tax Growth Account to pay the costs of
16 extending aid pursuant to this section.

17 (ii) A county, at its own discretion, may expend additional funds
18 beyond the amounts identified in clause (i). These additional
19 amounts shall not be included in any cost and savings calculations
20 or comparisons performed pursuant to this section.

21 (B) Funding and expenditures for programs and activities under
22 this section shall be in accordance with the requirements provided
23 in Sections 30025 and 30026.5 of the Government Code. In
24 addition, the following are available to the counties for the purpose
25 of funding costs pursuant to this section:

26 (i) The savings in Kin-GAP assistance grant expenditures
27 realized from the receipt of federal funds due to the implementation
28 of Article 4.7 (commencing with Section 11385).

29 (ii) The savings realized from the change in federal funding for
30 adoption assistance resulting from the enactment of the federal
31 Fostering Connection to Success and Increasing Adoption Act of
32 2008 (Public Law 110-351) and consistent with subdivision (d) of
33 Section 16118.

34 (4) (A) The limit on the county's total contribution pursuant to
35 paragraph (3) shall be assessed by the State Department of Social
36 Services, in conjunction with the California State Association of
37 Counties, in 2015–16, to determine if it shall be removed. The
38 assessment of the need for the limit shall be based on a
39 determination on a statewide basis of whether the actual county
40 costs of providing extended care pursuant to this section are fully

1 funded by the amount of savings in Kin-GAP assistance grant
2 expenditures realized by the counties from the receipt of federal
3 funds due to the implementation of Article 4.7 (commencing with
4 Section 11385) and the amount of funding specifically included
5 in the Protective Services Subaccount within the Support Services
6 Account within the Local Revenue Fund 2011 plus any associated
7 growth funding from the Support Services Growth Subaccount
8 within the Sales and Use Tax Growth Account to pay the costs of
9 extending aid pursuant to this section.

10 (B) If the assessment pursuant to subparagraph (A) shows that
11 the statewide total costs of extending aid pursuant to this section
12 are fully funded by the amount of savings in Kin-GAP assistance
13 grant expenditures realized by the counties from the receipt of
14 federal funds due to the implementation of Article 4.7
15 (commencing with Section 11385) and the amount of funding
16 specifically included in the Protective Services Subaccount within
17 the Support Services Account within the Local Revenue Fund
18 2011 plus any associated growth funding from the Support Services
19 Growth Subaccount within the Sales and Use Tax Growth Account
20 to pay the costs of extending aid pursuant to this section, the
21 Department of Finance shall certify that fact, in writing, and shall
22 post the certification on its Internet Web site, at which time
23 subparagraph (A) of paragraph (3) shall no longer be implemented.

24 (h) It is the intent of the Legislature that no county currently
25 participating in the Child Welfare Demonstration Capped
26 Allocation Project be adversely impacted by the department's
27 exercise of its option to extend foster care benefits pursuant to
28 Section 673(a)(4) and Section 675(8) of Title 42 of the United
29 States Code in the federal Social Security Act, as contained in the
30 federal Fostering Connections to Success and Increasing Adoptions
31 Act of 2008 (Public Law 110-351). Therefore, the department shall
32 negotiate with the United States Department of Health and Human
33 Services on behalf of those counties that are currently participating
34 in the demonstration project to ensure that those counties receive
35 reimbursement for these new programs outside of the provisions
36 of those counties' waiver under Subtitle IV-E (commencing with
37 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
38 670 et seq.).

39 (i) The department, on or before July 1, 2013, shall develop
40 regulations to implement this section in consultation with

1 concerned stakeholders, including, but not limited to,
2 representatives of the Legislature, the County Welfare Directors
3 Association, the Chief Probation Officers of California, the Judicial
4 Council, representatives of Indian tribes, the California Youth
5 Connection, former foster youth, child advocacy organizations,
6 labor organizations, juvenile justice advocacy organizations, foster
7 caregiver organizations, and researchers. In the development of
8 these regulations, the department shall consider its Manual of
9 Policy and Procedures, Division 30, Chapters 30-912, 913, 916,
10 and 917, as guidelines for developing regulations that are
11 appropriate for young adults who can exercise incremental
12 responsibility concurrently with their growth and development.
13 The department, in its consultation with stakeholders, shall take
14 into consideration the impact to the automated Child Welfare
15 Services Case Management System (CWS/CMS) and required
16 modifications needed to accommodate eligibility determination
17 under this section, benefit issuance, case management across
18 counties, and recognition of the legal status of nonminor
19 dependents as adults, as well as changes to data tracking and
20 reporting requirements as required by the Child Welfare System
21 Improvement and Accountability Act as specified in Section
22 10601.2, and federal outcome measures as required by the federal
23 John H. Chafee Foster Care Independence Program (42 U.S.C.
24 Sec. 677(f)). In addition, the department, in its consultation with
25 stakeholders, shall define the supervised independent living setting
26 which shall include, but not be limited to, apartment living, room
27 and board arrangements, college or university dormitories, and
28 shared roommate settings, and define how those settings meet
29 health and safety standards suitable for nonminors. The department,
30 in its consultation with stakeholders, shall define the six-month
31 certification of the conditions of eligibility pursuant to subdivision
32 (b) to be consistent with the flexibility provided by federal policy
33 guidance, to ensure that there are ample supports for a nonminor
34 to achieve the goals of his or her transition independent living case
35 plan. The department, in its consultation with stakeholders, shall
36 ensure that notices of action and other forms created to inform the
37 nonminor of due process rights and how to access them shall be
38 developed, using language consistent with the special needs of the
39 nonminor dependent population.

1 (j) Notwithstanding the Administrative Procedure Act, Chapter
2 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
3 Title 2 of the Government Code, the department shall prepare for
4 implementation of the applicable provisions of this section by
5 publishing, after consultation with the stakeholders listed in
6 subdivision (i), all-county letters or similar instructions from the
7 director by October 1, 2011, to be effective January 1, 2012.
8 Emergency regulations to implement the applicable provisions of
9 this act may be adopted by the director in accordance with the
10 Administrative Procedure Act. The initial adoption of the
11 emergency regulations and one readoption of the emergency
12 regulations shall be deemed to be an emergency and necessary for
13 the immediate preservation of the public peace, health, safety, or
14 general welfare. Initial emergency regulations and the first
15 readoption of those emergency regulations shall be exempt from
16 review by the Office of Administrative Law. The emergency
17 regulations authorized by this section shall be submitted to the
18 Office of Administrative Law for filing with the Secretary of State
19 and shall remain in effect for no more than 180 days.

20 SEC. 9. Section 11405 of the Welfare and Institutions Code is
21 amended to read:

22 11405. (a) Except for nonminors described in paragraph (2)
23 of subdivision (e), AFDC-FC benefits shall be paid to an otherwise
24 eligible child living with a nonrelated legal guardian, provided
25 that the legal guardian cooperates with the county welfare
26 department in all of the following:

- 27 (1) Developing a written assessment of the child's needs.
- 28 (2) Updating the assessment no less frequently than once every
29 six months.
- 30 (3) Carrying out the case plan developed by the county.

31 (b) Except for nonminors described in paragraph (2) of
32 subdivision (e), when AFDC-FC is applied for on behalf of a child
33 living with a nonrelated legal guardian the county welfare
34 department shall do all of the following:

- 35 (1) Develop a written assessment of the child's needs.
- 36 (2) Update those assessments no less frequently than once every
37 six months.
- 38 (3) Develop a case plan that specifies how the problems
39 identified in the assessment are to be addressed.

1 (4) Make visits to the child as often as appropriate, but in no
2 event less often than once every six months.

3 (c) Where the child is a parent and has a child living with him
4 or her in the same eligible facility, the assessment required by
5 paragraph (1) of subdivision (a) shall include the needs of his or
6 her child.

7 (d) Nonrelated legal guardians of eligible children who are in
8 receipt of AFDC-FC payments described in this section shall be
9 exempt from the requirement to register with the Statewide
10 Registry of Private Professional Guardians pursuant to Sections
11 2850 and 2851 of the Probate Code.

12 (e) (1) A nonminor youth whose nonrelated guardianship was
13 ordered in juvenile court pursuant to Section 360 or 366.26, and
14 whose dependency was dismissed, shall remain eligible for
15 AFDC-FC benefits until the youth attains 21 years of age, provided
16 that the youth enters into a mutual agreement with the agency
17 responsible for his or her guardianship, and the youth is meeting
18 the conditions of eligibility, as described in paragraphs (1) to (5),
19 inclusive, of subdivision (b) of Section 11403.

20 (2) A nonminor former dependent or ward as defined in
21 paragraph (2) of subdivision (aa) of Section 11400 shall be eligible
22 for benefits under this section until the youth attains 21 years of
23 age if all of the following conditions are met:

24 (A) The nonminor former dependent or ward attained 18 years
25 of age while in receipt of Kin-GAP benefits pursuant to Article
26 4.7 (commencing with Section 11385).

27 (B) The nonminor's relationship to the kinship guardian is
28 defined in paragraph (2), (3), or (4) of subdivision (c) of Section
29 11391.

30 (C) The nonminor who was under 16 years of age at the time
31 the Kin-GAP negotiated agreement payments commenced.

32 (D) The guardian continues to be responsible for the support of
33 the nonminor.

34 (E) The nonminor otherwise is meeting the conditions of
35 eligibility, as described in paragraphs (1) to (5), inclusive, of
36 subdivision (b) of Section 11403.

37 (f) A child whose nonrelated guardianship was ordered in
38 probate court pursuant to Article 2 (commencing with Section
39 1510) of Chapter 1 of Part 2 of Division 4 of the Probate Code,
40 who is attending high school or the equivalent level of vocational

1 or technical training on a full-time basis, or who is in the process
2 of pursuing a high school equivalency certificate prior to his or
3 her 18th birthday may continue to receive aid following his or her
4 18th birthday as long as the child continues to reside in the
5 guardian's home, remains otherwise eligible for AFDC-FC benefits
6 and continues to attend high school or the equivalent level of
7 vocational or technical training on a full-time basis, or continues
8 to pursue a high school equivalency certificate, and the child may
9 reasonably be expected to complete the educational or training
10 program or to receive a high school equivalency certificate, before
11 his or her 19th birthday. Aid shall be provided to an individual
12 pursuant to this section provided that both the individual and the
13 agency responsible for the foster care placement have signed a
14 mutual agreement, if the individual is capable of making an
15 informed agreement, documenting the continued need for
16 out-of-home placement.

17 (g) (1) For cases in which a guardianship was established on
18 or before June 30, 2011, or the date specified in a final order, for
19 which the time for appeal has passed, issued by a court of
20 competent jurisdiction in California State Foster Parent
21 Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct.
22 No. C 07-05086 WHA), whichever is earlier, the AFDC-FC
23 payment described in this section shall be the foster family home
24 rate structure in effect prior to the effective date specified in the
25 order described in this paragraph.

26 (2) For cases in which guardianship has been established on or
27 after July 1, 2011, or the date specified in the order described in
28 paragraph (1), whichever is earlier, the AFDC-FC payments
29 described in this section shall be the basic foster family home rate
30 set forth in paragraph (1) of subdivision (g) of Section 11461.

31 (3) The AFDC-FC payments identified in this subdivision shall
32 be adjusted annually by the percentage change in the California
33 Necessities Index rate as set forth in paragraph (2) of subdivision
34 (g) of Section 11461.

35 (h) In addition to the AFDC-FC rate paid, all of the following
36 also shall be paid:

37 (1) A specialized care increment, if applicable, as set forth in
38 subdivision (e) of Section 11461.

39 (2) A clothing allowance, as set forth in subdivision (f) of
40 Section 11461.

1 (3) For a child eligible for an AFDC-FC payment who is a teen
2 parent, the rate shall include the two hundred dollar (\$200) monthly
3 payment made to the relative caregiver in a whole family foster
4 home pursuant to paragraph (3) of subdivision (d) of Section
5 11465.

6 SEC. 10. If the Commission on State Mandates determines
7 that this act contains costs mandated by the state, reimbursement
8 to local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

O

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2015 - 2016 Regular Session

SB 12 (Beall)
Version: April 7, 2015
Hearing Date: April 14, 2015
Fiscal: Yes
Urgency: No
NR

SUBJECT

Foster youth

DESCRIPTION

This bill would permit a nonminor who is between the age of 18 and 21, and who was subject to an order for foster care placement, either as a dependent or a ward, to petition the court to resume jurisdiction and enter extended foster care if he or she: (1) exited foster care at or after the age of majority; (2) was subject to an order for foster care placement any time after reaching the age of 14, was adjudged a ward, and the last custody order of the court did not return the child to the physical custody of his or her parent; or (3) was subject to an order for foster care placement, and was adjudged a ward, and was a ward at 18 years old in secure confinement.

(This analysis reflects author's amendments to be offered in Committee.)

BACKGROUND

Each year in California, about 5,000 youth emancipate from foster care, which is by far the largest number of any state in the union. According to data from the state's Child Welfare Services/ Case Management System, about 52,000 Californians emancipated from foster care between 1999 and 2009. The immediate outcomes for these young adults are sobering. Studies have shown that former foster youth, when compared to other young adults of the same age and race, are less likely to complete high school, attend college, or be employed. They are also at a higher risk for becoming homeless and arrested or incarcerated. (*See Foster Care in California*, Public Policy Institute of California, 2010.)

In October 2008, the federal government enacted the Fostering Connections to Success and Increasing Adoptions Act (Public Law 110-351) which offers states the opportunity to opt-in to new federal funding streams if they choose to provide kinship-guardianship benefits to relative guardians or provide foster care to 18 to 21-year-old youth. AB 12 (Beall and Bass, Chapter 559, Statutes of 2010), the California Fostering Connections to Success Act (Act), authorized the juvenile courts to exercise jurisdiction over and extend foster care benefits to nonminor dependents between the ages of 18 to 21 if they meet

the specified criteria. One year later, the Legislature enacted AB 212 (Beall, Chapter 459, Statutes of 2011) to aid in the implementation of the Act. AB 1712 (Beall, Chapter 846, Statutes of 2012) and AB 787 (Stone, Chapter 487, Statutes of 2013) further clarified specific issues related to that implementation, including clarifying that former nonminor dependents (NMD) who reached permanency, but whose guardian, relative, or adoptive parent died before their 21st birthday, may reenter extended foster care.

Children who emancipate from the delinquency system are generally not eligible for extended foster care. The two systems are distinct in that juvenile dependency deals with abused and neglected children, whereas juvenile delinquency deals with violations of law by a minor. However, research shows that youth who have contact with both the dependency and delinquency systems, typically because of illegal activity while under the care of the child welfare system, are the state's "most vulnerable youth," in part because of the likelihood that these children will experience mental health and substance abuse problems. (Nell Bernstein, Cal. State Library, *Helping Those Who Need it Most: Meeting the Mental Health Care Needs of Youth in the Foster Care and Juvenile Justice Systems* 3 (2005), available at <http://www.library.ca.gov/crb/cafis/reports/05-01/05-01.pdf> [as of April, 2, 2015].)

Prior to 2005, all California counties exercised "exclusive jurisdiction" over these youth, meaning a child could only receive services from either the dependency or delinquency system. Thus, in cases where the court terminated dependency jurisdiction after the child violated the law, the child lost child welfare benefits, such as drug rehabilitation services, mental health counseling, and court-appointed parental supervision, in exchange for probation. (Jessica Springer, *Orange County's Answer to the Dual Jurisdictional Dilemma*, November 2014, 56 *Orange County Lawyer* 30.) Recognizing the needs of this particular population, the Legislature passed AB 129 (Cohn, Chapter 468, Statutes of 2004) which gave counties the discretion to exercise either dual or exclusive jurisdiction over crossover youths. Despite this authority, only nine counties have adopted protocols in response to AB 129 and thus most still operate under an exclusive jurisdiction system. In those counties operating under an exclusive jurisdiction system, a former dependent youth who crossed over into the delinquency system is not eligible for extended foster care benefits. This bill seeks to address that issue by ensuring that dual status youth, as specified, are eligible for extended foster care.

CHANGES TO EXISTING LAW

Existing law, the California Fostering Connections to Success Act (Act), is a voluntary program for youth who meet specified work and education participation criteria. The Act provides, among other things, for the extension of transitional foster care benefits to eligible youth up to age 21, as specified. (Welf. & Inst. Code Sec. 11403 et seq.)

Existing law defines a "nonminor dependent" as a current or former foster child between the ages of 18 and 21 who is in foster care under the responsibility of the

county welfare department, county probation department, or an Indian tribe, and is participating in a transitional independent living plan. (Welf. & Inst. Code Sec. 11400.)

Existing law provides for the voluntary continuation or reentry into foster care for nonminor dependents who meet general Aid to Families with Dependent Children-Foster Care (AFDC-FC) requirements, and when the nonminor youth has signed a voluntary mutual agreement and one or more of the following conditions exist:

- the nonminor is working toward their high school education or an equivalent credential;
- the nonminor is enrolled in a postsecondary institution or vocational education program;
- the nonminor is participating in a program or activity designed to promote or remove barriers to employment;
- the nonminor is employed for at least 80 hours per month; and/or
- the nonminor is incapable of doing any of the activities described above, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. (Welf. & Inst. Code Sec. 11403.)

Existing law allows a former nonminor dependent or delinquent who turned 18 years of age while under the order of a foster care placement and who is under the age of 21 to petition the court to resume dependency jurisdiction. (Welf. & Inst. Code Sec. 388.)

Existing law defines “nonminor former dependent or ward” as either:

- a nonminor who reached 18 years of age while subject to an order for foster care placement, for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court; or
- a nonminor who is over 18 years of age and, while a minor, was a dependent child or ward of the juvenile court when the guardianship was established, as specified, and the juvenile court dependency or wardship was dismissed following the establishment of the guardianship. (Welf. & Inst. Code Sec. 11400 (aa).)

Existing law provides that nonminor former dependents are generally not eligible for reentry into extended foster care as nonminor dependents of the juvenile court. (Welf. & Inst. Code Sec. 11403.)

Existing law provides that a nonminor former dependent whose guardian or adoptive parent died or no longer provides ongoing support to, and no longer receives benefits on behalf of, may reenter extended foster care if he or she is between the age of 18 and 21. (Welf. & Inst. Code Sec. 11403(c).)

This bill would permit a nonminor who is between the age of 18 and 21, and who was subject to an order for foster care placement, either as a dependent or a ward, and who meets any of the following conditions to petition the court to resume jurisdiction and enter extended foster care:

- exited foster care at or after the age of majority;

- was subject to an order for foster care placement any time after reaching the age of 14, was adjudged a ward, and the last custody order of the court did not return the child to the physical custody of his or her parent; or
- was subject to an order for foster care placement, and was adjudged a ward pursuant to section 725 of the Welfare & Institutions Code, and was a ward at 18 years old in secure confinement.

COMMENT

1. Stated need for the bill:

According to the author:

[T]he California Fostering Connections to Success Act – provides foster youth with the opportunity to remain in foster care for up to three additional years up until age 21. The goal of Fostering Connections was to assist foster youth, or nonminor dependents as they are referred to in statute, in their transition into adulthood. Research has shown that extending foster care to age 21 can be a valuable tool in countering the dismal outcomes – including high rates of homelessness, incarceration, reliance on public assistance, teen pregnancy, and low rates of high school and postsecondary graduation – faced by youth who are forced to leave the foster care system at age 18 and helping them to achieve stability and education and career goals. However, due to Fostering Connections’ complexity, follow-up legislation has been needed each year since its adoption to help ensure successful implementation.

New legislation is needed to ensure that we correct our statutory oversight and ensure several very small but vulnerable populations of former foster youth are included in and able to voluntarily re-enter extended foster care... The populations that are excluded include youth who ... have an order for foster care placement after their 14th birthday, are involved in juvenile delinquency system, [but] do not reunify with their parents or legal guardianships before they turn 18 and ... youth who have crossed over from the dependency system to the delinquency system and are in secure confinement when they turn 18.

Our obligation to these youth is the same as any parent, to ensure that youth who have spent their formative years parented by the child welfare system receive ongoing support in navigating adult life.

2. Bill is narrowly tailored to capture a small population of vulnerable youth

This bill is limited to nonminor youths who: (1) exited foster care at or after the age of majority; (2) were subject to an order for foster care placement any time after reaching

the age of 14, have been adjudged a ward, and the last custody order of the court did not return the child to the physical custody of their parent; or (3) were subject to an order for foster care placement, and adjudged a ward, and were wards at 18 years old in secure confinement.

The bill would allow a youth, described above, to petition the court to resume dependency jurisdiction and thus enter extended foster care. To be eligible for extended foster care, these youths would be subject to the same requirements as other nonminor dependents, including: the nonminor is working toward his or her high school education or an equivalent credential; the nonminor is enrolled in a postsecondary institution or vocational education program; the nonminor is participating in a program or activity designed to promote or remove barriers to employment; or the nonminor is employed for at least 80 hours per month. (Welf. & Inst. Code Sec. 11403.)

Since the passage of AB 12 (Beall and Bass, Ch. 559, Stats. 2008) the Legislature has enacted significant subsequent legislation to further achieve the goals of the Fostering Connections to Success Act. (*See* Background.) This bill will continue the Legislature's efforts to ensure the Act is properly implemented by allowing certain nonminor dependents to enter extended foster care. In support, the Coalition for Youth writes, "This bill provides a support net to vulnerable former foster youth under the age of 21 who were inadvertently excluded in prior legislative efforts to extend foster care to youth who require the assistance and protections of the child welfare system in a healthy transition to adulthood."

3. Existing services for crossover youth

This bill seeks to address the needs of crossover youth by allowing certain nonminors, who were at one time subject to both dependency and delinquency jurisdiction, petition the court to resume jurisdiction, thereby allowing them to enter extended foster care. Under extended foster care, eligible youths are provided up to three more years of housing and services, such as mental health services and healthcare.

As background, when a child is removed from the physical custody of his or her parent or guardian because of abuse, neglect or endangerment, the child becomes a dependent child and the child welfare system steps in to assume the role of parent. If that child commits a crime and becomes a ward of the court, the child's status, in all but nine counties, as a dependent is terminated. He or she becomes a delinquent, subject to probation. If the child successfully completes probation, he or she will normally be returned to his or her parent or guardian. However, it may not be safe for the child to return home. In most counties, the court is often forced to send the child home and wait for another report of abuse or neglect to be filed with the child welfare services department to re-initiate a dependency proceeding.

Staff notes that the majority of dependent youth who crossover into the delinquency system are charged with “status” offenses such as consumption of alcohol, truancy, or running away from home, and misdemeanor offenses. Accordingly, in practice, these youths who have been victims of abuse, lose the important protections and support of the dependency system when they act out in a typical and/or understandable adolescent fashion. Youths who have the opportunity to be “dual status,” in counties that exercise simultaneous dependency and delinquency jurisdiction, may continue receiving dependency protections, even while the goals of the delinquency system are carried out. Thus, once a child completes probation, he or she is provided the protections of the dependency system, without first being subject to additional abuse from his or her family. Without the ability to connect these youth with services, the court must choose which system will take jurisdiction over the youth. The Chief Probation Officers (CPOC), who are sympathetic to the concept of dual status and the goals of extended foster care, oppose this bill because they feel they lack the resources to implement it. In their letter of opposition, the CPOC describe the role probation plays in the lives of these youth:

Probation should not keep a youth under probation supervision who has successfully completed his or her probation term. It is not a best practice nor does it truly allow the youth to realize the significant accomplishment he or she has achieved. In our view, if a youth on probation has successfully completed his or her term of supervision and for whatever reason his or her housing situation has become unstable, that is an issue specific to the welfare of the child, not a probation offense. The youth should not remain on probation or return to probation supervision.

To address the needs of these youth, California passed AB 129 (Cohn, Ch. 468, Stats. 2004) which authorized counties to create protocols for dual status children to remain under the jurisdiction of both dependency and delinquency. However, the vast majority of counties have not developed these protocols. A recent law review article described California’s law as failing crossover youth:

The statutory allowance for dual status protocols, while apparently more sympathetic to the plight of the foster child coming into contact with the criminal justice system, fails to secure the welfare of that child because it does not go far enough. The main problem is that the law does not require counties to develop dual status protocols; therefore, whether or not they do so is voluntary, resulting in the small number of counties (nine of fifty-eight) that have thus far done so. ...

The goals of the dependency and delinquency systems are distinct: the child welfare system wants to protect the child as victim by providing a safe and nurturing home for the child, while the juvenile delinquency system wants to punish and rehabilitate the youth as offender by legally forcing the youth to accept responsibility for her transgressions. The institutional separateness of the dependency and delinquency systems detracts from the state’s ability to provide, and the troubled and vulnerable

foster child's ability to receive, services to either prevent or best deal with delinquent conduct. Adjusting its treatment of foster children at risk of delinquency by avoiding abandoning them will allow the state to better serve its children's vast needs. Foster young people and their greater communities will benefit. (Lisa Beth Greenfield Pearl, *Using Storytelling to Achieve a Better Sequel to Foster Care than Delinquency*; 2013, *New York University Review of Law & Social Change*, 37 N.Y.U. Rev. L. & Soc. Change 553.)

4. Author's amendments

To better reflect the intent of this bill, the author offers the following clarifying amendment:

In the third category of qualifying criteria for a youth under this bill, require that the youth was subject to an order for foster care placement at the time the petition to adjudge him or her a ward pursuant to section 725 was filed and was in secure confinement at age 18.

Support: Advokids; Alliance for Children's Rights; California Coalition for Youth; California Youth Connection; Children Now; Children's Defense Fund; Children's Rights Project at Public Counsel; Communities United for Restorative Youth Justice; Court Appointed Special Advocates for Children of Santa Cruz County; Court Appointed Special Advocates for Children of Ventura County; East Bay Children's Law Offices; East Bay Community Law Center; First Place for Youth; Frontier High School in the Whittier Union School District; Junior Leagues of California State Public Affairs Committee; Legal Services for Children; National Center for Youth Law; National Foster Youth Institute

Opposition: Chief Probation Officers of California

HISTORY

Source: Youth Law Center

Related Pending Legislation: AB 885 (Lopez) would delete the requirement that a parent or guardian no longer receive aid on behalf of the nonminor before a juvenile court may resume dependency jurisdiction.

Prior Legislation:

AB 2454 (Quirk-Silva, Chapter 769, Statutes of 2014) permitted a nonminor former dependent who previously received extended Kinship Guardianship Assistance Payment (Kin-GAP) or Adoption Assistance Payment, but whose former guardians are

no longer providing support, to petition the court to resume dependency under the extended foster care program.

AB 2573 (Stone, 2014) would have authorized a court to assume or resume transition jurisdiction over a nonminor who attained 18 years of age while subject to an order for foster care placement without consideration of whether the rehabilitative goals of the nonminor ward, as set forth in the case plan, had been met. This bill was held on suspense in Senate Appropriations Committee.

AB 787 (Stone, Chapter 487, Statutes of 2013) among other provisions, allows re-entry into nonminor dependency for nonminor former dependents who reached permanency and whose guardian died before their 21st birthday.

AB 985 (Cooley, 2013) would have expanded eligibility for extended state Kin-GAP benefits to age 21 to youth who attain 18 years of age while receiving federal or state benefits and who entered the program prior to reaching the age of 16, subject to specified criteria. This bill was held on suspense in Senate Appropriations Committee.

AB 1712 (Beall, Chapter 846, Statutes of 2012) expanded the definition of relative caregiver to include nonrelative extended family members and made other technical and clarifying changes to the California Fostering Connections to Success Act.

AB 212 (Beall, Chapter 459, Statutes of 2011) made technical and clarifying changes to the California Fostering Connections to Success Act.

AB 12 (Beall and Bass, Chapter 559, Statutes of 2010) established the California Fostering Connections to Success Act, which extended transitional foster care services to eligible youth between ages 18 and 21 and required California to seek federal financial participation for the Kin-GAP.

AB 129 (Cohn, Chapter 468, Statutes of 2004) which gave counties the discretion to develop protocols in order to exercise dual jurisdiction over crossover youths who fall within the jurisdiction of both the dependency and delinquency systems.

Prior Vote: Senate Human Services Committee: (Ayes 5, Noes 0)

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 216

Introduced by Assembly Member Cristina Garcia

February 2, 2015

An act to add Chapter 5 (commencing with Section 24600) to Division 20 of the Health and Safety Code, relating to product sales to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 216, as amended, Cristina Garcia. Product sales to minors: vapor products.

Existing law prohibits the sale of electronic cigarettes to people under 18 years of age. Existing law defines “electronic cigarette” as a device that can provide an inhalable dose of nicotine by delivering a vaporized solution.

This bill would prohibit the sale of any device intended to deliver a nonnicotine product in a vapor state, to be directly inhaled by the user, to a person under 18 years of age. *The bill would exempt from its prohibition the sale of a drug or medical device that has been approved by the federal Food and Drug Administration.* Because this bill would create a new crime or infraction, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Chapter 5 (commencing with Section 24600) is
2 added to Division 20 of the Health and Safety Code, to read:

3

4

CHAPTER 5. PRODUCT SALES TO MINORS

5

6 24600. (a) It shall be unlawful for a person to sell or otherwise
7 furnish any device intended to deliver a nonnicotine product in a
8 vapor state, to be directly inhaled by the user, to a person under
9 18 years of age.

10 (b) *Subdivision (a) does not prohibit the sale or furnishing of*
11 *a drug or medical device that has been approved by the federal*
12 *Food and Drug Administration pursuant to the federal Food, Drug,*
13 *and Cosmetic Act (21 U.S.C. Sec. 301, et. seq).*

14 ~~(b)~~

15 (c) A violation of this section shall be an infraction punishable
16 by a fine not exceeding five hundred dollars (\$500) for the first
17 violation, by a fine not exceeding one thousand dollars (\$1,000)
18 for the second violation, or by a fine not exceeding one thousand
19 five hundred dollars (\$1,500) for a third or subsequent violation.

20 SEC. 2. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Jimmy Gomez, Chair
AB 216 (Cristina Garcia) – As Amended April 13, 2015

Policy Committee: Governmental Organization Vote: 20 - 0
Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill prohibits the sale of any device intended to deliver a nonnicotine vapor product to a person less than 18 years of age. The bill specifies fines for violations of \$500, \$1,000, and \$1,500 for the first, second, and third and subsequent violations, respectively, and exempts the sale of drugs and medical devices that have been approved by the federal Food and Drug Administration.

FISCAL EFFECT:

Minor nonreimbursable local law enforcement costs, offset to a limited degree by fine revenue.

COMMENTS:

- 1) **Purpose.** According to the author, current law only prevents minors from purchasing vaping and electronic cigarette devices with nicotine cartridges. This bill prohibits the sale of nonnicotine vaping products to anyone under the age of 18. Nonnicotine vaping products can include cannabis and other herbal substances, and the vaporizers can later be used with nicotine cartridges. The author asserts these nonnicotine vaping products are often targeted towards kids with sweet flavored compounds, and as a result, the number of children using vaping products has grown considerably since 2009.
- 2) **Candy Cancer?** Although they do not contain nicotine, vaping compounds have been shown to contain other harmful, potentially carcinogenic chemicals. The Department of Public Health's (DPH) January 2015 report on electronic cigarettes, *A Community Health Threat*, stated the aerosol compounds used in vaping products were found to contain at least ten ingredients known to cause cancer, and that aerosols contained higher concentrations of certain harmful heavy metals and silicate particles than are present in traditional cigarettes.

Minors are currently free to purchase and use nonnicotine vaping products, and retailers have created a wide range of flavors to appeal to kids, such as gummy bears, kool-aid, and skittles. In 2014, DPH found that among 8th, 10th, and 12th graders, electronic cigarette use was 8.7%, 16.2%, and 17.1%, respectively, while traditional cigarette use was 4.0%, 7.2%, and 13.6%, respectively. The author claims total vaping by children has doubled every year since 2009, and vaping products can be gateways to future nicotine and tobacco use.

On April 24, 2014, the federal Food and Drug Administration released proposed regulations on electronic cigarettes, including a ban on sales to minors. It remains unclear whether those rules will include nonnicotine vaping products, they have yet to be finalized.

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1300

Introduced by Assembly Member Ridley-Thomas

February 27, 2015

An act to amend Sections 5001, 5008, 5013, 5150, 5150.05, 5150.1, 5150.2, 5151, 5152.1, 5153, and 5270.50 of, to add Sections 5001.5, 5022, 5023, 5024, 5025, 5026, ~~5150.25~~ 5150.2.5, 5150.3, 5151.1, and 5151.2 to, to add the heading of Article 1.3 (commencing with Section 5151) to, to add Article 1.1 (commencing with Section 5150.10) to, to add Article 1.2 (commencing with Section 5150.30) to, Chapter 2 of Part 1 of Division 5 of, to repeal Section 5150.4 of, and to repeal and add Section 5152.2 of, the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1300, as amended, Ridley-Thomas. Mental health: involuntary commitment.

Under existing law, when a person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, he or she may, upon probable cause, be taken into custody by a peace officer, member of the attending staff of an evaluation facility, designated members of a mobile crisis team, or other designated professional person, and placed in a facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour treatment and evaluation.

This bill would authorize counties to designate one or more persons to act as a local or regional liaison to assist a person who is a patient in an emergency department of a defined nondesignated hospital and who has been detained, or who may require detention, for evaluation and treatment, as specified. The bill would reorganize and make changes to the provisions relating to the detention for evaluation and treatment of a person who may be subject to the above provisions, including specifying procedures for delivery of those individuals to various facilities; evaluation of the person for probable cause for detention for evaluation and treatment; terms and length of detention, where appropriate, in various types of facilities; and criteria for release from defined designated facilities and nondesignated hospitals. The bill would authorize a provider of ambulance services to transfer a person who is voluntarily transferring to a designated facility for evaluation and treatment. The bill would also make changes to the methods by which law enforcement is notified of the release of a person detained for evaluation and treatment.

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 5001 of the Welfare and Institutions Code
2 is amended to read:
3 5001. The provisions of this part and Part 1.5 (commencing
4 with Section 5585) shall be construed to promote the legislative
5 intent as follows:
6 (a) To end the inappropriate, indefinite, and involuntary
7 commitment of persons with mental health disorders,
8 developmental disabilities, and chronic alcoholism, and to eliminate
9 legal disabilities.
10 (b) To provide prompt evaluation and treatment of persons with
11 mental health disorders or impaired by chronic alcoholism.
12 (c) To guarantee and protect public safety.
13 (d) To safeguard individual rights through judicial review.
14 (e) To provide individualized treatment, supervision, and
15 placement services by a conservatorship program for persons who
16 are gravely disabled.
17 (f) To encourage the full use of all existing agencies,
18 professional personnel, and public funds to accomplish these

1 objectives and to prevent duplication of services and unnecessary
2 expenditures.

3 (g) To protect persons with mental health disorders and
4 developmental disabilities from criminal acts.

5 (h) To provide consistent standards for protection of the personal
6 rights of persons receiving services under this part and under Part
7 1.5 (commencing with Section 5585).

8 (i) To provide services in the least restrictive setting appropriate
9 to the needs of each person receiving services under this part and
10 under Part 1.5 (commencing with Section 5585).

11 (j) To ensure that persons receive services from facilities and
12 providers that are qualified and best suited to provide the services,
13 and that persons are not detained in settings that are not therapeutic
14 or not designed to meet their needs.

15 (k) To affirm that no person may be presumed to be incompetent
16 because he or she has been evaluated or treated for a mental health
17 disorder or chronic alcoholism, regardless of whether that
18 evaluation or treatment was voluntarily or involuntarily received.

19 SEC. 2. Section 5001.5 is added to the Welfare and Institutions
20 Code, to read:

21 5001.5. It is the intent of the Legislature that each county shall
22 have the responsibility to ensure that all persons with mental health
23 disorders who are subject to detention under this part or under Part
24 1.5 (commencing with Section 5585) receive prompt evaluation
25 and treatment in accordance with this part and Part 1.5
26 (commencing with Section 5585), including prompt assessment
27 of the need for evaluation and treatment. It is the intent of the
28 Legislature that each county establish and maintain a mental health
29 service system that has sufficient capacity to ensure the provision
30 of services under this part and Part 1.5 (commencing with Section
31 5585), including, at a minimum, the services required under
32 paragraph (2) of subdivision (a) of Section 5651.

33 SEC. 3. Section 5008 of the Welfare and Institutions Code is
34 amended to read:

35 5008. Unless the context otherwise requires, the following
36 definitions shall govern the construction of this part:

37 (a) "Antipsychotic medication" means medication customarily
38 prescribed for the treatment of symptoms of psychoses and other
39 severe mental and emotional disorders.

1 (b) "Application for detention for evaluation and treatment"
2 means the written application set forth in Section 5150.3.

3 (c) (1) "Assessment" means the determination, as described in
4 subdivision (b) of Section 5150 and Section 5151, of the following:

5 (A) Whether the person meets the criteria for detention for
6 evaluation and treatment.

7 (B) Whether the person is in need of evaluation and treatment
8 and, if so, what services are needed for the person.

9 (C) Whether the person can be properly served without being
10 detained, in which case the services shall be provided on a
11 voluntary basis.

12 (2) "Assessment" includes, but is not limited to, mental status
13 determination, analysis of clinical and social history, analysis of
14 relevant cultural issues and history, diagnosis, and the use of testing
15 procedures.

16 (d) "Authorized professional" means any of the following:

17 (1) A mental health professional or category of mental health
18 professionals, excluding peace officers, who are authorized in
19 writing by a county to provide services described in this
20 subdivision. An authorized professional shall have appropriate
21 training in mental health disorders and determination of probable
22 cause, and shall have relevant experience in providing services to
23 persons with mental health disorders.

24 (2) An authorized professional as described in paragraph (1)
25 who is a member of the staff of a designated facility and who is
26 authorized by the facility to provide services described in this
27 subdivision.

28 (3) A member of a mobile crisis team who is authorized in
29 writing by a county to provide services described in this
30 subdivision.

31 (e) "Conservatorship investigation" means an investigation, by
32 an agency appointed or designated by the governing body, of cases
33 in which conservatorship is recommended pursuant to Chapter 3
34 (commencing with Section 5350).

35 (f) "Court," unless otherwise specified, means a court of record.

36 (g) "Court-ordered evaluation" means an evaluation ordered by
37 a superior court pursuant to Article 2 (commencing with Section
38 5200) or by a superior court pursuant to Article 3 (commencing
39 with Section 5225) of Chapter 2.

1 (h) "Crisis intervention" consists of an interview or series of
2 interviews within a brief period of time, conducted by qualified
3 professionals, and designed to alleviate personal or family
4 situations which present a serious and imminent threat to the health
5 or stability of the person or the family. The interview or interviews
6 may be conducted in the home of the person or family, or on an
7 inpatient or outpatient basis with such therapy, or other services,
8 as may be appropriate. The interview or interviews may include
9 family members, significant support persons, providers, or other
10 entities or individuals, as appropriate and as authorized by law.
11 Crisis intervention may, as appropriate, include suicide prevention,
12 psychiatric, welfare, psychological, legal, or other social services.

13 (i) "Crisis stabilization service or unit" means an ambulatory
14 service that provides probable cause determinations and
15 assessments, collateral services, and therapy within the scope of
16 its designation under this part.

17 (j) "Department" means the State Department of Health Care
18 Services.

19 (k) (1) "Designated facility" means a facility or a specific unit
20 or part of a facility that is licensed or certified as a mental health
21 evaluation facility, a mental health treatment facility, or a mental
22 health evaluation and treatment facility. A designated facility may
23 be an inpatient facility or an ambulatory facility.

24 (2) "Inpatient facility" means a health facility, or an inpatient
25 unit of a health facility, as defined in Chapter 2 (commencing with
26 Section 1250) of Division 2 of the Health and Safety Code, that
27 is licensed by the State of California, has the capability to admit
28 and treat persons on an inpatient basis subject to the requirements
29 of this part, and is designated by a county pursuant to Section 5023.
30 Inpatient facility also includes a hospital or the inpatient unit of a
31 hospital operated by the United States government that has the
32 capability to admit and treat persons on an inpatient basis, subject
33 to the requirements of this part, and that is designated by the county
34 pursuant to Section 5023. A designated inpatient facility includes
35 any of the following:

36 (A) A general acute care hospital, as defined in subdivision (a)
37 of Section 1250 of the Health and Safety Code.

38 (B) An acute psychiatric hospital, as defined in subdivision (b)
39 of Section 1250 of the Health and Safety Code.

1 (C) A psychiatric health facility, as defined in Section 1250.2
2 of the Health and Safety Code.

3 (D) A correctional treatment center, as defined in Section 1250
4 of the Health and Safety Code, operated by a county, city, or city
5 and county law enforcement agency. The department may approve
6 an unlicensed correctional treatment center that is in existence as
7 of January 1, 2016, if the correctional treatment center meets all
8 of the licensing requirements except those that are structurally
9 impracticable.

10 (3) "Ambulatory facility" means a facility designated by a
11 county under Section 5023 that provides psychiatric services lasting
12 less than 24 hours in accordance with applicable law and within
13 the scope of the designation. An ambulatory facility may include
14 an outpatient hospital department, clinic, crisis stabilization facility
15 or unit, facility of a medical group, facility of a provider
16 organization other than a medical group, or other facility that meets
17 the requirements established by the department in accordance with
18 Section 5023.

19 (l) "Detained for evaluation and treatment" and "detention for
20 evaluation and treatment" mean the taking into custody and
21 detention of a person in accordance with Section 5150.

22 (m) "Emergency" means a sudden marked change in the
23 person's condition such that action to impose treatment over the
24 person's objection is immediately necessary for the preservation
25 of life or the prevention of serious bodily harm to the patient or
26 others, and it is impracticable to first gain consent. It is not
27 necessary for harm to take place or become unavoidable prior to
28 treatment.

29 (n) "Emergency transport provider" means a provider of
30 ambulance services licensed by the Department of the California
31 Highway Patrol or operated by a public safety agency and includes
32 the authorized personnel of an emergency transport provider who
33 are certified or licensed under Sections 1797.56, 1797.80, 1797.82,
34 and 1797.84 of the Health and Safety Code.

35 (o) "Evaluation" means a multidisciplinary professional analyses
36 of a person's medical, psychological, educational, social, financial,
37 and legal conditions as may appear to constitute a problem. Persons
38 providing evaluation services shall be properly qualified
39 professionals and may be full-time employees, part-time
40 employees, or independent contractors of a county, designated

1 facility, or other agency providing face-to-face evaluation services.
2 Face-to-face evaluation services includes face-to-face evaluation
3 by means of telehealth.

4 (p) (1) For purposes of Article 1 (commencing with Section
5 5150), Article 2 (commencing with Section 5200), and Article 4
6 (commencing with Section 5250) of Chapter 2, and for the purposes
7 of Chapter 3 (commencing with Section 5350), “gravely disabled”
8 means either of the following:

9 (A) A condition in which a person, as a result of a mental health
10 disorder, is unable to provide for his or her basic personal needs
11 for food, clothing, or shelter.

12 (B) A condition in which a person, has been found mentally
13 incompetent under Section 1370 of the Penal Code and all of the
14 following facts exist:

15 (i) The indictment or information pending against the person at
16 the time of commitment charges a felony involving death, great
17 bodily harm, or a serious threat to the physical well-being of
18 another person.

19 (ii) The indictment or information has not been dismissed.

20 (iii) As a result of a mental health disorder, the person is unable
21 to understand the nature and purpose of the proceedings taken
22 against him or her and to assist counsel in the conduct of his or
23 her defense in a rational manner.

24 (2) For purposes of Article 3 (commencing with Section 5225)
25 and Article 4 (commencing with Section 5250), of Chapter 2, and
26 for the purposes of Chapter 3 (commencing with Section 5350),
27 “gravely disabled” means a condition in which a person, as a result
28 of impairment by chronic alcoholism, is unable to provide for his
29 or her basic personal needs for food, clothing, or shelter.

30 (3) The term “gravely disabled” does not include persons with
31 intellectual disabilities by reason of that disability alone.

32 (q) “Intensive treatment” consists of hospital and other services
33 as may be indicated. Intensive treatment shall be provided by
34 properly qualified professionals and carried out in facilities
35 qualifying for reimbursement under the California Medical
36 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
37 with Section 14000) of Part 3 of Division 9, or under Title XVIII
38 of the federal Social Security Act and regulations thereunder.
39 Intensive treatment may be provided in hospitals of the United
40 States government by properly qualified professionals. Nothing

1 in this part shall be construed to prohibit an intensive treatment
2 facility from also providing 72-hour evaluation and treatment.

3 (r) "Local or regional liaison" means a person or persons
4 authorized by a county, or by two or more counties acting jointly,
5 under Section 5024.

6 (s) "Mobile crisis team" means a team comprised of one or more
7 professionals, and which may also include peer counselors, who
8 are authorized by a county to provide probable cause
9 determinations and other services under this part.

10 (t) "Peace officer" means a duly sworn peace officer as that
11 term is defined in Chapter 4.5 (commencing with Section 830) of
12 Title 3 of Part 2 of the Penal Code who has completed the basic
13 training course established by the Commission on Peace Officer
14 Standards and Training, or any parole officer or probation officer
15 specified in Section 830.5 of the Penal Code when acting in relation
16 to cases for which he or she has a legally mandated responsibility.

17 (u) "Postcertification treatment" means an additional period of
18 treatment pursuant to Article 6 (commencing with Section 5300)
19 of Chapter 2.

20 (v) "Prepetition screening" is a screening of all petitions for
21 court-ordered evaluation as provided in Article 2 (commencing
22 with Section 5200) of Chapter 2, consisting of a professional
23 review of the petition; an interview with the petitioner and,
24 whenever possible, the person alleged, as a result of a mental health
25 disorder, to be a danger to others, or to himself or herself, or to be
26 gravely disabled, to assess the problem and explain the petition;
27 and when indicated, efforts to persuade the person to receive, on
28 a voluntary basis, comprehensive evaluation, crisis intervention,
29 referral, and other services specified in this part.

30 (w) "Probable cause determination" means a determination
31 whether there is probable cause for the detention of a person for
32 evaluation and treatment. A probable cause determination shall be
33 based solely on the criteria for detaining a person for evaluation
34 and treatment pursuant to Section 5150. The probable cause
35 determination shall not consider the availability of beds or services
36 at designated facilities within or outside of the county.

37 (x) "Professional person in charge of a facility" means the
38 licensed person authorized by a designated facility who is
39 responsible for the clinical direction of the designated facility.

1 (y) "Professional staff" means the medical staff or other
2 organized professional staff of an inpatient facility.

3 (z) "Referral" means referral of persons by each facility,
4 provider, or other organization providing assessment, evaluation,
5 crisis intervention, or treatment services to other facilities,
6 providers, or agencies in accordance with Section 5013 and Part
7 1.5 (commencing with Section 5585).

8 (aa) "Telehealth" means the telehealth services, as defined in
9 paragraph (6) of subdivision (a) of Section 2290.5 of the Business
10 and Professions Code, for the purpose of providing services under
11 this part, including a probable cause determination, the release of
12 a person from detention for evaluation and treatment under Section
13 5150.15, assessment or evaluation, and treatment. For purposes
14 of this part, telehealth services may be used by any licensed
15 professional, including a psychologist, clinical social worker, and
16 other mental health professional, acting within the scope of his or
17 her profession for providing evaluation, treatment, consultation,
18 or other mental health services under this part.

19 SEC. 4. Section 5013 of the Welfare and Institutions Code is
20 amended to read:

21 5013. (a) The purpose of a referral shall be to provide for
22 continuity of care and services. A referral may include, but need
23 not be limited to, informing the person of available services,
24 making appointments on the person's behalf, communication with
25 the agency or individual to which the person has been referred,
26 appraising the outcome of referrals, and arranging for escort,
27 transportation, or both, when necessary. All persons shall be
28 advised of available precare services that prevent initial recourse
29 to hospital treatment or aftercare services that support adjustment
30 to community living following hospital treatment. These services
31 may be provided through county or city mental health departments,
32 state hospitals under the jurisdiction of the State Department of
33 State Hospitals, regional centers under contract with the State
34 Department of Developmental Services, or other public or private
35 entities.

36 (b) It is the intent of the Legislature that referrals between
37 facilities, providers, and other organizations shall be facilitated by
38 the sharing of information and records in accordance with Section
39 5328 and applicable federal and state laws.

1 (c) Each city or county behavioral health department is
2 encouraged to include on its Internet Web site a current list of
3 ambulatory behavioral health services and other resources for
4 persons with behavioral health disorders and substance use
5 disorders in the city or county that may be accessed by providers
6 and consumers of behavioral health services. The list of services
7 on the Internet Web site should be updated at least annually by the
8 city or county behavioral health department.

9 SEC. 5. Section 5022 is added to the Welfare and Institutions
10 Code, to read:

11 5022. The department shall promote the consistent statewide
12 application of this part in order to ensure protection of the personal
13 rights of all persons who are subject to this part and Part 1.5
14 (commencing with Section 5585). The department shall provide
15 oversight of the statewide application of this part and facilitate
16 discussion among the organizations listed in subdivision (a) of
17 Section 5400, law enforcement agencies, hospitals, mental health
18 professionals, county patients' rights advocates, the California
19 Office of Patients' Rights, and other stakeholders as may be
20 necessary or desirable to achieve the legislative intent of consistent
21 statewide application. These discussions shall include situations
22 where persons are certified for additional intensive treatment in a
23 county authorizing that treatment under Article 4.7 (commencing
24 with Section 5270.10) of Chapter 2 who are then transferred to a
25 facility during the course of additional intensive treatment in a
26 county that has not authorized additional intensive treatment.

27 SEC. 6. Section 5023 is added to the Welfare and Institutions
28 Code, to read:

29 5023. (a) Each county may designate inpatient and ambulatory
30 facilities within the county, with the approval of the department,
31 that meet the applicable requirements established by the department
32 by regulation. An outpatient or emergency department of a
33 nondesignated inpatient facility may be designated as an
34 ambulatory facility if it meets all the requirements for certification
35 as an ambulatory facility.

36 (b) (1) Each county may designate ambulatory facilities within
37 the county that meet the behavioral health needs of persons within
38 the requirements of applicable law and the scope of their
39 designation. The department shall encourage counties to use

1 appropriate ambulatory facilities for the evaluation and treatment
2 of persons pursuant to this part.

3 (2) Counties, mental health professionals, providers, and other
4 organizations, with the support of the department, are encouraged
5 to establish crisis stabilization services and other ambulatory
6 facilities that are designated by a county to provide probable cause
7 determinations and assessments, and, as applicable, evaluation and
8 treatment services and crisis stabilization services, in settings that
9 are appropriate to the needs of persons with severe mental illness
10 and less restrictive than inpatient health facilities.

11 (3) Nothing in this subdivision shall preclude the designation
12 of an ambulatory facility that is an outpatient clinic of a licensed
13 health facility.

14 (4) An ambulatory facility shall provide services within the
15 scope of its designation to all persons regardless of their place of
16 residence.

17 (c) Regulations adopted pursuant to this part establishing staffing
18 standards for designated facilities shall be consistent with
19 applicable licensing regulations for the type of facility. If there are
20 no licensing regulations for the type of designated facility, or for
21 certain categories of professional personnel providing services in
22 a type of designated facility, the regulations adopted pursuant to
23 this part for staffing standards may differentiate between the types
24 of designated facilities, including ambulatory facilities.

25 (d) A county shall not charge or assess a fee for the designation
26 of a facility or an authorized professional.

27 (e) Each designated facility shall accept, within its clinical
28 capability and capacity, all categories of persons for whom it is
29 designated, without regard to insurance or financial status. If a
30 person presents to a designated facility with a psychiatric
31 emergency medical condition, as defined in subdivision (f) of
32 Section 5150.10, that is beyond its capability, the facility shall
33 assist the person in obtaining emergency services and care at an
34 appropriate facility.

35 (f) In order to provide access by members of the public to
36 information about designated facilities, each county department
37 responsible for mental health services shall maintain on its Internet
38 Web site the locations of all designated facilities within the county,
39 including address, the types of services available at each designated
40 facility, and the hours of operation for ambulatory facilities. The

1 Internet Web site shall be updated if there are changes to the
2 information.

3 (g) Each county shall report to the department, on at least an
4 annual basis, a current list of designated facilities within the county,
5 including the name and address of each facility and its facility
6 type. The department shall maintain a list of designated facilities,
7 by county and facility licensure type, on its Internet Web site, and
8 update the list not less than annually. The department Internet Web
9 site shall also contain links to each county Internet Web site
10 required by subdivision (f).

11 (h) Counties are encouraged to share information with adjacent
12 and other counties with respect to its roster of authorized
13 professionals. An authorized professional shall not be required to
14 obtain approval from another county to be an authorized
15 professional in that county in order to take action under this part.

16 SEC. 7. Section 5024 is added to the Welfare and Institutions
17 Code, to read:

18 5024. (a) Each county may authorize one or more qualified
19 persons to act as a local or regional liaison to assist nondesignated
20 hospitals in the county in accordance with this section and Article
21 1.1 (commencing with Section 5150.10) of Chapter 2. Two or
22 more counties may enter into an intercounty arrangement under
23 which the participating counties agree to authorize one or more
24 persons to act as a local or regional liaison to assist nondesignated
25 hospitals in the participating counties in accordance with this
26 section and Article 1.1 (commencing with Section 5150.10) of
27 Chapter 2.

28 (b) The role of the local or regional liaison is to assist a person
29 who is a patient in an emergency department of a nondesignated
30 hospital and who has been detained, or may require detention, for
31 evaluation and treatment. The assistance may include any of the
32 following:

33 (1) Arranging for an authorized professional to provide a prompt
34 probable cause determination under Section 5150.13.

35 (2) Arranging for an authorized professional to determine
36 whether the detention for evaluation and treatment of a person
37 shall be released under Section 5150.15.

38 (3) Arranging for the placement of a person detained for
39 evaluation and treatment who has been medically stabilized for
40 transfer or discharge to a designated facility.

1 (c) A local or regional liaison may be employed by, or may
 2 contract with, a county or counties and may include personnel of
 3 one or more designated facilities within the county or counties.
 4 The role of the local or regional liaison may be rotated among the
 5 categories of persons described in this subdivision.

6 (d) A local or regional liaison shall be available 24 hours a day,
 7 including weekends and holidays, to provide assistance under this
 8 section.

9 (e) Each county, or counties acting jointly under this section,
 10 shall provide the nondesignated hospitals in the county or counties
 11 with the contact information for a local or regional liaison. The
 12 means of contact may be a designated telephone number, email,
 13 text-messaging or other electronic means, or any combination of
 14 the foregoing, so long as the local or regional liaison has immediate
 15 access to the means of contact. The contact information provided
 16 to nondesignated hospitals shall be updated as necessary.

17 (f) This section shall not apply to a county that has not
 18 authorized a local or regional liaison.

19 SEC. 8. Section 5025 is added to the Welfare and Institutions
 20 Code, to read:

21 5025. (a) A designated facility or nondesignated hospital, as
 22 defined in subdivision (e) of Section 5150.10, or a ~~physician,~~
 23 ~~employee,~~ *physician* or other *professional* staff person who has
 24 *received training in managing persons who have been detained*
 25 *for evaluation and treatment and is acting within the scope of his*
 26 *or her official duties or employment for the designated facility or*
 27 *nondesignated hospital shall not be liable for any injury resulting*
 28 *from determining any of the following:*

29 (1) Whether to detain a person for a mental health disorder,
 30 inebriation, chronic alcoholism, or the use of narcotics or a
 31 restricted dangerous drug in accordance with this part.

32 (2) The terms, conditions, and enforcement of detention for a
 33 person with a mental health disorder, inebriation, chronic
 34 alcoholism, or the use of narcotics or a restricted dangerous drug
 35 in accordance with this part.

36 (3) Whether to release a person detained for a mental disorder,
 37 inebriation, chronic alcoholism, or the use of narcotics or a
 38 restricted dangerous drug in accordance with this part.

39 (b) A ~~physician, employee,~~ *physician* or other *professional* staff
 40 *person who has received training in managing persons who have*

1 *been detained for evaluation and treatment and is acting within*
 2 *the scope of his or her official duties or employment for a*
 3 *designated facility or nondesignated hospital shall not be liable*
 4 *for carrying out a determination described in subdivision (a) so*
 5 *long as he or she uses due care.*

6 *(c) Nothing in this section shall exonerate a person described*
 7 *in this section from liability if that person acted with gross*
 8 *negligence or willful or wanton misconduct.*

9 SEC. 9. Section 5026 is added to the Welfare and Institutions
 10 Code, to read:

11 5026. (a) A designated facility or nondesignated hospital, as
 12 defined in subdivision (e) of Section 5150.10, or a ~~physician,~~
 13 ~~employee,~~ *physician* or other *professional staff person who has*
 14 *received training in managing persons who have been detained*
 15 *for evaluation and treatment and is acting within the scope of his*
 16 *or her official duties or employment for the designated facility or*
 17 *nondesignated hospital shall not be liable for any of the following:*

18 (1) An injury caused by an eloping or eloped person who has
 19 been detained for a mental health disorder or addiction.

20 (2) An injury to, or the wrongful death of, an eloping or eloped
 21 person who has been detained for a mental health disorder or
 22 addiction.

23 (b) ~~Nothing in this section shall exonerate a physician,~~
 24 ~~employee, or other staff person acting within the scope of his or~~
 25 ~~her official duties or employment for a designated facility or~~
 26 ~~nondesignated hospital from liability if he or she acted or failed~~
 27 ~~to act because of actual fraud, corruption, or actual malice.~~ *a person*
 28 *described in this section from liability if that person acted with*
 29 *gross negligence or willful or wanton misconduct.*

30 SEC. 10. Section 5150 of the Welfare and Institutions Code is
 31 amended to read:

32 5150. (a) When a person, as a result of a mental health
 33 disorder, is a danger to others, or to himself or herself, or gravely
 34 disabled, a peace officer or an authorized professional acting within
 35 the scope of his or her authorization may, upon probable cause,
 36 take, or cause to be taken, the person into custody for a period of
 37 up to 72 hours for assessment, evaluation, and crisis intervention,
 38 or placement for evaluation and treatment in a facility designated
 39 by the county for evaluation and treatment and approved by the
 40 department. At a minimum, assessment, as defined in subdivision

1 (c) of Section 5008, and evaluation, as defined in subdivision (n)
2 of Section 5008, shall be conducted and provided on an ongoing
3 basis. Crisis intervention, as defined in subdivision (g) of Section
4 5008, may be provided concurrently with assessment, evaluation,
5 or any other service. The period of 72-hour detention for evaluation
6 and treatment shall begin at the time that the person is initially
7 detained pursuant to this section.

8 (b) (1) When an individual detained pursuant to subdivision
9 (a) is taken to a designated facility for evaluation and treatment,
10 the professional person in charge, a member of the attending staff
11 of the designated facility, or an authorized professional acting
12 within the scope of his or her authorization by the county, shall
13 assess the person to determine whether he or she can be properly
14 served without being detained. The assessment shall be performed
15 based on the clinical condition and needs of a person detained for
16 evaluation and treatment. This section shall not be construed to
17 prevent an authorized professional from providing consultation or
18 other professional assistance by telehealth. If in the judgment of
19 the authorized professional, the person can be properly served
20 without being detained, he or she shall be provided evaluation,
21 crisis intervention, or other inpatient or outpatient services on a
22 voluntary basis.

23 (2) If the person detained for evaluation and treatment is taken
24 to a designated ambulatory facility that is authorized by the county
25 to conduct an assessment, the assessment shall be conducted by
26 the professional person in charge of the designated ambulatory
27 facility or his or her designee acting within the scope of his or her
28 licensed profession. The assessment in a designated ambulatory
29 facility may be performed by or in consultation with an authorized
30 member of the professional staff of a designated inpatient facility
31 using telehealth if the designated inpatient facility has agreed to
32 admit the person in accordance with subdivision (a) upon a
33 determination that an involuntary admission is appropriate.

34 (3) This section shall not be construed to prevent a peace officer,
35 or an authorized professional employee of an emergency transport
36 provider acting at the direction of the peace officer, from delivering
37 individuals to a designated facility for an assessment under this
38 section. Furthermore, the assessment requirement of this section
39 shall not be construed to require peace officers or authorized
40 professional employees of emergency transport providers acting

1 at the direction of the peace officer to perform any additional duties
2 other than those specified in Sections 5150.1 and 5150.2.

3 (4) If an individual detained under subdivision (a) is first taken
4 to an emergency department of a nondesignated hospital, as defined
5 in subdivision (e) of Section 5150.10, the provisions of Article 1.1
6 (commencing with Section 5150.10) shall apply to the individual
7 during his or her stay in the emergency department of a
8 nondesignated hospital. This section does not require the peace
9 officer or authorized professional who detained the individual
10 pursuant to subdivision (a) to take or cause the individual to be
11 taken to an emergency department of a nondesignated hospital.

12 (5) Notwithstanding paragraph (2) of subdivision (j) of Section
13 5008, or any regulation, if a person detained for evaluation and
14 treatment presents or is transferred to a designated ambulatory
15 facility, and following a new determination of probable cause, the
16 professional person in charge of the designated ambulatory facility
17 or his or her designee determines that the person continues to meet
18 the criteria for detention under Section 5150 and should be admitted
19 to a designated inpatient facility for further evaluation and
20 treatment, the designated ambulatory facility shall make and
21 document good faith efforts to arrange placement for the person
22 in a designated inpatient facility. Subject to the requirements of
23 subdivision (a), if the designated ambulatory facility has been
24 unable to arrange placement for the person in a designated inpatient
25 facility within 24 hours, the designated ambulatory facility shall
26 continue to provide evaluation and treatment for the person beyond
27 24 hours in order to arrange for placement and transfer of the
28 person to a designated inpatient facility, provided the designated
29 ambulatory facility, prior to the expiration of the 24 hours, notifies
30 the county in which it is located and the mental health patients'
31 rights advocate for the county that it is continuing to detain the
32 person beyond 24 hours. The designated ambulatory facility shall
33 not transfer or send a person to an emergency department of a
34 nondesignated hospital unless the person requires examination or
35 treatment for a medical condition that is beyond the capability of
36 the designated ambulatory facility.

37 (c) Whenever a person is evaluated by an authorized professional
38 and is found to be in need of mental health services, but is not
39 admitted to the facility, all available alternative services provided

1 pursuant to subdivision (b) shall be offered as determined by the
2 county mental health director.

3 (d) If, in the judgment of the authorized professional, the person
4 cannot be properly served without being detained, the admitting
5 facility shall require an application in writing pursuant to Section
6 5150.3.

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

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

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

1 _____
2 (name of facility)

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

4

5 (2) If taken into custody at his or her own residence, the person
6 shall also be provided the following information:

7

8 You may bring a few personal items with you, which I will have
9 to approve. Please inform me if you need assistance turning off
10 any appliance or water. You may make a phone call and leave a
11 note to tell your friends or family where you have been taken.
12

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

- 16 (1) The name of the person detained for evaluation.
- 17 (2) The name and position of the peace officer or mental health
18 professional taking the person into custody.
- 19 (3) The date the advisement was completed.
- 20 (4) Whether the advisement was completed.
- 21 (5) The language or modality used to give the advisement.
- 22 (6) If the advisement was not completed, a statement of good
23 cause, as defined by regulations of the State Department of Health
24 Care Services.

25 (h) Each person admitted to a facility designated by the county
26 for evaluation and treatment shall be given the following
27 information by admission staff of the facility. The information
28 shall be given orally and in writing and in a language or modality
29 accessible to the person. The written information shall be available
30 to the person in English and in the language that is the person's
31 primary means of communication. Accommodations for other
32 disabilities that may affect communication shall also be provided.
33 The information shall be in substantially the following form:
34

35 My name is _____.

36 My position here is _____.

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

- 1 Harm yourself.
- 2 Harm someone else.
- 3 Be unable to take care of your own food, clothing, and housing needs.

4 We believe this is true because

6 (list of the facts upon which the allegation of dangerous
7 or gravely disabled due to mental health disorder is based, including pertinent
8 facts arising from the admission interview).

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

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

22 If you have questions about your legal rights, you may contact the county
23 Patients' Rights Advocate at _____.

24 (phone number for the county Patients' Rights

25 _____ .
26 Advocacy office)

27 Your 72-hour period began _____ .
28 (date/time)

29
30 (i) 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 (h), 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 SEC. 11. Section 5150.05 of the Welfare and Institutions Code
2 is amended to read:

3 5150.05. (a) When determining if probable cause exists to
4 take a person into custody, or cause a person to be taken into
5 custody, pursuant to Section 5150, a person who is authorized to
6 take that person, or cause that person to be taken, into custody
7 pursuant to that section shall consider available relevant
8 information about the historical course of the person's mental
9 disorder if the authorized person determines that the information
10 has a reasonable bearing on the determination as to whether the
11 person is a danger to others, or to himself or herself, or is gravely
12 disabled as a result of the mental disorder.

13 (b) For purposes of this section, "information about the historical
14 course of the person's mental disorder" includes evidence presented
15 by the person who has provided or is providing mental health or
16 related support services to the person subject to a determination
17 described in subdivision (a), evidence presented by one or more
18 members of the family of that person, and evidence presented by
19 the person subject to a determination described in subdivision (a)
20 or anyone designated by that person.

21 (c) If the probable cause in subdivision (a) is based on the
22 statement of a person other than one authorized to take the person
23 into custody pursuant to Section 5150, the person making the
24 statement shall be liable in a civil action for intentionally giving
25 a statement that he or she knows to be false.

26 (d) This section shall not be applied to limit the application of
27 Section 5328.

28 SEC. 12. Section 5150.1 of the Welfare and Institutions Code
29 is amended to read:

30 5150.1. (a) A peace officer or authorized professional
31 employee of an emergency transport provider acting at the direction
32 of a peace officer, seeking to transport, or having transported, a
33 person to a designated facility for assessment pursuant to
34 subdivision (a) of Section 5150 or Section 5151, shall not be
35 instructed by mental health personnel to take the person to, or keep
36 the person at, a jail solely because of the unavailability of an acute
37 bed. The peace officer or the authorized professional employee of
38 an emergency transport provider acting at the direction of the peace
39 officer, shall not be forbidden to transport the person directly to
40 the designated facility. No mental health employee from any

1 county, state, city, or any private agency providing psychiatric
2 emergency services shall interfere with a peace officer or an
3 authorized professional employee of an emergency transport
4 provider acting at the direction of a peace officer performing duties
5 under Section 5150 by preventing the peace officer from detaining
6 a person for evaluation and treatment or preventing the peace
7 officer or an authorized professional employee of an emergency
8 transport provider acting at the direction of a peace officer from
9 entering a designated facility with the person for an assessment.
10 An employee of a facility shall not require the peace officer or an
11 authorized professional employee of an emergency transport
12 provider acting at the direction of a peace officer to remove the
13 person without an assessment as a condition of allowing the peace
14 officer or an authorized professional employee of an emergency
15 transport provider acting at the direction of a peace officer to
16 depart.

17 (b) An emergency transport ~~provider, provider~~ or any certified
18 or licensed personnel of an emergency transport ~~provider, provider~~
19 *who have received training in managing persons who have been*
20 *detained for evaluation and treatment* shall not be civilly or
21 criminally liable for any of the following that may be applicable
22 to the transport of a person who has been detained for evaluation
23 and treatment:

24 (1) The continuation of the detention for evaluation and
25 treatment *in accordance with this part and other applicable law*
26 while transporting the person to a designated facility or an
27 emergency department of a nondesignated hospital at the direction
28 of a peace officer or authorized professional who detained the
29 person for evaluation and treatment.

30 (2) The continuation of the detention for evaluation and
31 treatment *in accordance with this part and other applicable law*
32 while transporting the person detained for evaluation and treatment
33 to a designated facility or an emergency department of a
34 nondesignated hospital at the direction of the treating emergency
35 professional in an emergency department of a nondesignated
36 hospital for an assessment or other service under Section 5151.

37 (c) For purposes of this section, "peace officer" means a peace
38 officer as defined in Chapter 4.5 (commencing with Section 830)
39 of Title 3 of Part 2 of the Penal Code and also includes a jailer
40 seeking to transport or transporting a person in custody to a

1 designated facility for an assessment consistent with Section 4011.6
2 or 4011.8 of the Penal Code and Section 5150.

3 *(d) Nothing in this section shall exonerate a person described*
4 *in this section from liability if that person acted with gross*
5 *negligence or willful or wanton misconduct.*

6 SEC. 13. Section 5150.2 of the Welfare and Institutions Code
7 is amended to read:

8 5150.2. In each county, whenever a peace officer or the
9 authorized professional employee of an emergency transport
10 provider acting at the direction of the peace officer has transported
11 a person to a designated facility for an assessment, the officer or
12 professional employee of an emergency transporter shall be
13 detained no longer than the time necessary to complete
14 documentation of the factual basis of the detention for evaluation
15 and treatment and effectuate a prompt, safe, and orderly transfer
16 of physical custody of the person.

17 SEC. 14. Section 5150.2.5 is added to the Welfare and
18 Institutions Code, to read:

19 5150.25. Nothing in this chapter supersedes or abrogates the
20 provisions governing medical control set forth in Chapter 5
21 (commencing with Section 1798) of Division 2.5 of the Health and
22 Safety Code.

23 ~~SEC. 14.~~

24 SEC. 15. Section 5150.3 is added to the Welfare and Institutions
25 Code, to read:

26 5150.3. (a) (1) The peace officer or an authorized professional
27 who takes a person into custody or otherwise initially detains a
28 person pursuant to Section 5150 shall complete and sign an
29 application for detention for evaluation and treatment, in the form
30 prescribed by subdivision (g), stating the circumstances under
31 which the person's condition was called to the attention of the
32 peace officer or authorized professional, and stating that the peace
33 officer or authorized professional has probable cause to believe
34 that the person is, as a result of a mental health disorder, a danger
35 to others, or to himself or herself, or gravely disabled.

36 (2) The documentation shall include detailed information
37 regarding the factual circumstances and observations constituting
38 probable cause for the peace officer or authorized professional to
39 believe that the person should be detained for evaluation and
40 treatment in accordance with Section 5150. If the probable cause

1 is based on the statement of a person other than the peace officer
2 or authorized professional, the person shall be liable in a civil
3 action for intentionally giving a statement that he or she knows is
4 false.

5 (3) A designated facility or nondesignated hospital shall require
6 presentation of the application as a condition of continuation of
7 the detention for evaluation and treatment. If the application is not
8 presented to the designated facility or nondesignated hospital, as
9 applicable, the person shall be immediately released from detention
10 for evaluation and treatment.

11 (4) An application for detention for evaluation and treatment
12 shall be valid in all counties to which the person may be taken to
13 a designated facility.

14 (b) (1) If the person detained by a peace officer or authorized
15 professional is in a location other than a designated facility or
16 nondesignated hospital, the original or copy of the application for
17 detention for evaluation and treatment shall be presented to the
18 designated facility under paragraph (2) or the nondesignated
19 hospital under paragraph (3).

20 (2) If after detention under Section 5150, the person is first taken
21 to a designated facility, the original or a copy of the signed
22 application for detention for evaluation and treatment shall be
23 presented to the designated facility.

24 (3) If after detention under Section 5150, the person is first taken
25 to a nondesignated hospital, the original or a copy of the signed
26 application for detention for evaluation and treatment shall be
27 presented to the nondesignated hospital. If the person is
28 subsequently transferred to a designated facility, the nondesignated
29 hospital shall deliver the original or a copy of the signed application
30 for detention for evaluation and treatment to the designated facility.
31 If the person is discharged from the nondesignated hospital under
32 Section 5150.15 or 5150.16, without a transfer to a designated
33 facility, the nondesignated hospital shall maintain the original or
34 a copy of the original signed application for detention for
35 evaluation and treatment.

36 (c) If a person detained for evaluation and treatment is
37 subsequently released from detention for evaluation and treatment
38 pursuant to Section 5150.15 or 5151, the application for detention
39 for evaluation and treatment in the possession of a designated
40 facility or nondesignated hospital shall be retained for the period

1 of time required by the medical records retention policy of the
2 designated facility or nondesignated hospital.

3 (d) The determination of a peace officer or authorized
4 professional to detain a person under Section 5150 and complete
5 and sign an application for detention for evaluation and treatment,
6 shall be based solely on whether the person meets the criteria for
7 detention for evaluation and treatment as set forth in Section 5150.
8 The determination shall not be delayed, denied, or refused based
9 on the availability of beds or services at designated facilities to
10 which a person may be taken under this article.

11 (e) If a person detained for evaluation and treatment under
12 Section 5150 is transported by a professional employee of an
13 emergency transport provider to a designated facility or
14 nondesignated hospital at the request of a peace officer or an
15 authorized professional, the peace officer or authorized professional
16 shall give the application for detention for evaluation and treatment
17 to the professional employee of the emergency transport provider
18 if the peace officer or authorized professional does not accompany
19 the person to the designated facility or nondesignated hospital.

20 (f) A copy of the application for detention for evaluation and
21 treatment shall be given to an emergency transport provider if the
22 person detained for evaluation and treatment is transported from
23 a nondesignated hospital to a designated facility or from a
24 designated facility to another designated facility.

25 (g) Not later than July 1, 2016, the department shall adopt and
26 make available a standardized form of the application for detention
27 for evaluation and treatment that shall be used by peace officers
28 and authorized professionals to apply for detention of a person for
29 evaluation and treatment under Section 5150 and by authorized
30 professionals to release a person from detention for evaluation and
31 treatment pursuant to Section 5150.15 or 5151. In developing the
32 form, the department shall request comments from stakeholders
33 including the organizations described in subdivision (b) of Section
34 5400. The form of the application for detention for evaluation and
35 treatment shall, at a minimum, provide all of the following:

36 (1) A description of the person's behavior and other relevant
37 facts that provide the basis for probable cause under Sections 5150
38 and 5150.05 of the person's detainment for evaluation and
39 treatment.

1 (2) For persons detained for evaluation and treatment who are
2 first taken to an emergency department of a nondesignated hospital,
3 documentation of the facts and conclusions that provide the basis
4 for the determination of medical clearance, excluding a psychiatric
5 emergency medical condition, by the emergency professional
6 treating the person in the emergency department to transfer the
7 person to a designated facility.

8 (3) Documentation of the facts and conclusions that provide the
9 basis for the determination by an authorized professional authorized
10 to perform an assessment that the person should be admitted for
11 involuntary evaluation and treatment under Section 5152.

12 (4) Determination of the facts and conclusions that support the
13 determination by an authorized professional authorized to release
14 a person from detention in accordance with Section 5150.14 or
15 5151.

16 (5) Request by a peace officer under Section 5152.1 for
17 notification of the person's release or discharge by a designated
18 facility or nondesignated hospital.

19 (6) All of the information required by subdivision (f) of Section
20 5150.

21 ~~SEC. 15.~~

22 *SEC. 16.* Section 5150.4 of the Welfare and Institutions Code
23 is repealed.

24 ~~SEC. 16.~~

25 *SEC. 17.* Article 1.1 (commencing with Section 5150.10) is
26 added to Chapter 2 of Part 1 of Division 5 of the Welfare and
27 Institutions Code, to read:

28
29 Article 1.1. Persons Detained in Nondesignated Hospitals

30
31 5150.10. Unless the context otherwise requires, the following
32 definitions shall govern the construction of this article:

33 (a) "Emergency department of a nondesignated hospital" means
34 a basic, comprehensive, or standby emergency medical service
35 that is approved by the State Department of Public Health as a
36 special or supplemental service of a nondesignated hospital. For
37 purposes of this part, an emergency department of a nondesignated
38 hospital shall include an observation or similar unit of the hospital
39 that meets both of the following criteria:

1 (1) The unit is operated under the direction and policies of the
2 emergency department.

3 (2) The unit provides continuing emergency services and care
4 to patients prior to an inpatient admission, transfer, or discharge.

5 (b) “Emergency professional” means either of the following:

6 (1) A physician and surgeon who is board certified or pursuing
7 board certification in emergency medicine, or a qualified licensed
8 person, as defined in subdivision (g), during any scheduled period
9 that he or she is on duty to provide medical screening and treatment
10 of patients in an emergency department of a nondesignated hospital.

11 (2) A physician and surgeon, or a qualified licensed person, as
12 defined in subdivision (g), during any scheduled period that he or
13 she is on duty to provide medical screening and treatment of
14 patients in the emergency department of a nondesignated hospital
15 that is a critical access hospital within the meaning of Section
16 1250.7 of the Health and Safety Code. A physician and surgeon
17 on duty under this paragraph shall include a physician and surgeon
18 on call for a standby emergency medical service who is responsible
19 to provide professional coverage for the emergency department.
20 A physician and surgeon on duty under this paragraph does not
21 include a physician and surgeon who is providing on-call specialty
22 coverage services to the emergency department of a nondesignated
23 hospital, unless the physician and surgeon is an emergency
24 professional under paragraph (1).

25 (c) “Emergency services and care” has the same meaning as in
26 subdivision (a) of Section 1317.1 of the Health and Safety Code.

27 (d) “EMTALA” means the Emergency Medical Treatment and
28 Labor Act, and regulations adopted pursuant thereto, as defined
29 in Section 1395dd of Title 42 of the United States Code.

30 (e) “Nondesignated hospital” means a general acute care
31 hospital, as defined in subdivision (a) of Section 1250 of the Health
32 and Safety Code or an acute psychiatric hospital, as defined in
33 subdivision (b) of Section 1250 of the Health and Safety Code,
34 that is not a designated facility.

35 (f) “Psychiatric emergency medical condition” has the same
36 meaning as in subdivision (k) of Section 1317.1 of the Health and
37 Safety Code.

38 (g) “Psychiatric professional” means a physician and surgeon
39 who is board certified or pursuing board certification in psychiatry

1 and who is providing specialty services to the emergency
2 department of a nondesignated hospital.

3 (h) "Qualified licensed person" means a licensed person
4 designated by the medical staff and governing body of a
5 nondesignated hospital to provide emergency services and care,
6 to the extent permitted by applicable law, in an emergency
7 department of the nondesignated hospital under the supervision
8 of a physician and surgeon.

9 (i) "Stabilized" has the same meaning as in subdivision (j) of
10 Section 1317.1 of the Health and Safety Code.

11 5150.11. (a) The Legislature finds and declares all of the
12 following:

13 (1) A person who has been detained for evaluation and treatment
14 pursuant to Section 5150 should be taken to a designated facility
15 rather than an emergency department of a nondesignated hospital.

16 (2) A person who has been detained for evaluation and treatment
17 pursuant to Section 5150 should be detained in an emergency
18 department of a nondesignated hospital only for the time necessary
19 to provide required emergency services and care and obtain medical
20 clearance, unless the person requires an admission for inpatient
21 services.

22 (3) A person who has been detained for evaluation and treatment
23 pursuant to Section 5150 has the right to receive a prompt
24 assessment to determine the appropriateness of the detention and
25 the need for evaluation and treatment at a designated facility.

26 (b) It is also the intent of the Legislature that nothing in this
27 chapter shall be construed to require a peace officer or any other
28 authorized professional to take a person detained for evaluation
29 and treatment to an emergency department of a nondesignated
30 hospital instead of taking the person to a designated facility, unless
31 the peace officer or authorized professional reasonably determines
32 that the person is in need of emergency care and services that
33 should be provided at an emergency department of a nondesignated
34 hospital before the person is transported to a designated facility.

35 5150.12. (a) This section shall apply to a person who has been
36 detained for evaluation and treatment by a peace officer or an
37 authorized professional and is taken to an emergency department
38 of a nondesignated hospital for emergency services and care.

39 (b) While the person is in the emergency department of the
40 nondesignated hospital, the detention of the person for evaluation

1 and treatment shall continue, unless the person is released from
2 detention pursuant to Section 5150.15 or 5150.16.

3 5150.13. (a) This section shall apply if, during a person's
4 examination or treatment in an emergency department, there is a
5 need for a determination of probable cause for the detention of the
6 person for evaluation and treatment.

7 (b) If a person who has not been detained for evaluation and
8 treatment has signs or symptoms, in the judgment of the treating
9 emergency professional, that indicate probable cause for detention
10 for evaluation and treatment, the person shall have the right to a
11 prompt probable cause determination in accordance with any of
12 the following:

13 (1) The hospital may contact the county to arrange for a probable
14 cause determination by an authorized professional, including, but
15 not limited to, a member of a mobile crisis team.

16 (2) (A) If the county in which the nondesignated hospital is
17 located has a local or regional liaison, the hospital may contact the
18 local or regional liaison to arrange for an authorized professional
19 to provide a prompt probable cause determination of the person.

20 (B) The local or regional liaison shall advise the nondesignated
21 hospital within 30 minutes of the time of the initial contact whether
22 an authorized professional can perform the probable cause
23 determination within two hours from the time of the initial contact
24 with the local or regional liaison.

25 (C) The probable cause determination shall be based solely on
26 the criteria for detaining a person for evaluation and treatment.
27 The probable cause determination shall not consider the availability
28 of beds or services at designated facilities within or outside of the
29 county.

30 (D) The probable cause determination may be conducted by an
31 authorized professional utilizing telehealth.

32 (3) The treating emergency professional may conduct a probable
33 cause determination and, upon a finding of probable cause, detain
34 the person for evaluation and treatment in accordance with Sections
35 5150 and 5150.3.

36 (c) If the person is detained for evaluation and treatment
37 pursuant to this section, the detention shall continue during his or
38 her stay in the emergency department of a nondesignated hospital,
39 unless the person is released from detention pursuant to Section

1 5150.15 or 5150.16 or the detention ends by reason of the
2 expiration of 72 hours pursuant to subdivision (a) of Section 5150.

3 5150.14. (a) This section shall apply to a person who is first
4 detained pursuant to Section 5150 for evaluation and treatment in
5 a nondesignated hospital emergency department or has been
6 detained pursuant to Section 5150 for evaluation and treatment
7 and first taken to an emergency department of a nondesignated
8 hospital.

9 (b) (1) Except as provided in subdivision (e), the nondesignated
10 hospital shall notify the county in which the nondesignated hospital
11 is located of the person's detention.

12 (2) If the person was detained for evaluation and treatment and
13 taken to the emergency department of the nondesignated hospital
14 pursuant to Section 5150.12, the notification shall occur after the
15 hospital has performed an initial medical screening of the person
16 in accordance with paragraphs (1) and (2) of subdivision (a) of
17 Section 1317.1 of the Health and Safety Code.

18 (3) If the person is first detained for evaluation and treatment
19 in the emergency department of the nondesignated hospital
20 pursuant to Section 5150.13, the notification shall occur when the
21 probable cause determination has been completed.

22 (c) The notification to the county shall be made using the
23 24-hour toll-free telephone number established by the county's
24 mental health program for psychiatric emergency services and
25 crisis stabilization if the county's mental health program has a
26 24-hour toll-free telephone number in operation on January 1,
27 2016, for this purpose. The notification shall be documented in
28 the patient's medical record.

29 (d) The nondesignated hospital shall advise the county of all of
30 the following:

31 (1) The time when the 72-hour detention period for evaluation
32 and treatment expires.

33 (2) An estimate of the time when the person will be medically
34 stable for transfer to a designated facility.

35 (3) The county in which the person resides, if known.

36 (e) The notification to the county under this section shall not
37 be required if the treating emergency professional determines that
38 the person will be admitted, pursuant to Section 5150.16, to an
39 acute care bed of a nondesignated hospital for the primary purpose

1 of receiving acute inpatient services for a medical condition that
2 is in addition to the person's psychiatric condition.

3 5150.15. (a) This section shall establish a process for releasing
4 from detention a person who has been detained for evaluation and
5 treatment during the time that the person is detained in the
6 emergency department of a nondesignated hospital.

7 (b) If the treating emergency professional determines that there
8 is no longer probable cause to continue the detention for evaluation
9 and treatment, the treating emergency professional may initiate a
10 followup probable cause determination to determine whether the
11 person may be released from detention for evaluation and
12 treatment. The followup probable cause determination shall be
13 made in accordance with either of the following:

14 (1) The hospital may contact the county, or a local or regional
15 liaison if authorized by the county, to arrange for an authorized
16 professional to perform a followup probable cause determination
17 to determine whether the person may be released from detention
18 for evaluation and treatment. If a county or a local or regional
19 liaison cannot arrange for an authorized professional to make the
20 determination within two hours of the initial call to the county or
21 the local or regional liaison and there is no probable cause for
22 detention, the treating emergency professional may perform a
23 followup probable cause determination to determine whether the
24 person may be released from detention for evaluation and
25 treatment.

26 (2) The treating emergency professional, without first contacting
27 the county or a local or regional liaison, may perform a followup
28 probable cause determination to determine whether the person
29 may be released from detention for evaluation and treatment.

30 (c) The determination under this section to release a person from
31 detention for evaluation and treatment shall be based solely on
32 whether there is probable cause to continue the detention for
33 evaluation and treatment. The determination to continue the
34 detention or to release the person from detention shall not be based
35 on the availability of beds or services at designated facilities within
36 or outside of the county, or on anything other than whether there
37 is probable cause for detention.

38 (d) The followup probable cause determination under this section
39 may be conducted by an authorized professional utilizing
40 telehealth.

1 (e) The followup probable cause determination under this section
2 may be conducted by a psychiatric professional.

3 5150.16. (a) This section shall apply to a person detained for
4 evaluation and treatment who is admitted to a nonpsychiatric unit
5 of a general acute care hospital for acute medical services. This
6 section shall apply to all general acute care hospitals, including
7 general acute care hospitals that are designated facilities.

8 (b) If the person detained for evaluation and treatment is
9 admitted to a nonpsychiatric unit of a general acute care hospital
10 for the primary purpose of receiving acute inpatient services for a
11 medical condition that is in addition to the person's psychiatric
12 condition, the effect on the detention for evaluation and treatment
13 while receiving acute medical services shall be as follows:

14 (1) If the hospital offers to provide assessment, evaluation, and
15 crisis intervention services and the person consents to the services
16 on a voluntary basis in addition to acute medical services, the
17 person shall be released from detention.

18 (2) If the hospital offers to provide assessment, evaluation, and
19 crisis intervention services and the person refuses or is unable to
20 consent to the services on a voluntary basis in addition to acute
21 medical services, the detention for evaluation and treatment shall
22 continue in effect during the acute hospital stay, for so long as
23 there continues to be probable cause for the detention.

24 (3) If the hospital does not have the capability to provide
25 assessment, evaluation, and crisis intervention services, the person
26 shall be released from detention for evaluation and treatment.

27 (c) The release of the person from detention for evaluation and
28 treatment shall be communicated to the person and documented
29 in the person's medical record.

30 (d) This section shall not apply to a person detained for
31 evaluation and treatment who meets both of the following:

32 (1) The person does not require acute inpatient services for a
33 medical condition.

34 (2) The person is awaiting a transfer to a designated facility and
35 is placed in an acute bed of the nondesignated hospital for the
36 purpose of securing the protection of the person or other persons,
37 or both, in the nondesignated hospital pending the transfer of the
38 person to a designated facility.

39 (e) In all cases described in subdivision (b), if the discharge
40 plan for the patient provides for followup evaluation and treatment

1 at a psychiatric facility, the patient shall be advised of the
2 recommended need for the followup evaluation and treatment.

3 (f) If the person is not able or willing to accept treatment on a
4 voluntary basis, or to accept the referral or transfer to a psychiatric
5 facility, the hospital shall obtain a new probable cause
6 determination for detention for evaluation and treatment pursuant
7 to Section 5150 in order to take or cause the person to be taken to
8 a designated facility. Upon request by the hospital, a county shall
9 arrange for an authorized professional to conduct a probable cause
10 determination in a timely manner, which may be performed by the
11 authorized professional utilizing telehealth.

12 5150.17. (a) This section, together with Sections 5150.18 and
13 5150.19, shall apply to the placement in a designated facility of a
14 person in a nondesignated hospital emergency department who
15 has been detained for evaluation and treatment.

16 (b) The person may be placed in any designated facility that has
17 the capability to meet the needs of the person, including a
18 designated ambulatory facility.

19 (c) Prior to placement in a designated ambulatory facility,
20 personnel at the designated ambulatory facility shall confirm
21 whether the facility can meet the needs of the person within the
22 scope of its designation and capability.

23 5150.18. (a) This section shall apply to the placement in a
24 designated facility for a person described in Section 5150.17 if the
25 person has a psychiatric emergency medical condition.

26 (b) If a person, in the judgment of the treating emergency
27 professional, has a psychiatric emergency medical condition, the
28 placement in a designated facility shall be made as follows:

29 (1) The placement may be in any designated facility that has
30 the capability and capacity to provide evaluation and treatment for
31 the person, whether that designated facility is located within or
32 outside of the county of the hospital.

33 (2) The treating emergency professional shall determine the
34 mode of transportation, including personnel and equipment, that
35 are appropriate for the transport of the person to the designated
36 facility.

37 (3) In the event of a disagreement as to whether the person under
38 this section has a psychiatric emergency medical condition, the
39 judgment of the treating emergency professional shall prevail.

1 (4) The placement of a person described in this subdivision shall
2 take precedence over provider networks.

3 (c) If the person, in the judgment of the treating emergency
4 professional, does not have a psychiatric emergency medical
5 condition, the placement of the person in a designated facility for
6 evaluation and treatment shall be deemed to be made for a medical
7 reason within the meaning of Section 1317.2 of the Health and
8 Safety Code.

9 (d) This section shall also apply to a person who has been
10 medically stabilized, but is being held in an inpatient unit of the
11 nondesignated hospital for the purposes of ensuring the safety and
12 security of the person or other persons, pending placement of the
13 person in a designated facility for evaluation and treatment.

14 (e) If a person detained for evaluation and treatment is in the
15 emergency department of a nondesignated hospital, or in a bed not
16 licensed for psychiatric care, the nondesignated hospital shall make
17 good faith efforts to arrange placement for the person in a
18 designated facility and, pending placement, shall provide further
19 screening, treatment, and monitoring consistent with the needs of
20 the patient and within the capacity of the hospital.

21 5150.19. (a) This section describes assistance that may be
22 available to an emergency department of a nondesignated hospital
23 for the placement in a designated facility of a person described in
24 Section 5150.17.

25 (b) If a person has been taken to or detained by a
26 county-authorized professional in the emergency department of
27 the nondesignated hospital, the authorized professional shall assist
28 the nondesignated hospital in arranging for the placement of the
29 person with an appropriate designated facility.

30 (c) If a person is detained for evaluation and treatment by a
31 peace officer or a treating emergency professional in the emergency
32 department of the nondesignated hospital, the hospital may contact
33 the local or regional liaison, if authorized for the county in which
34 the nondesignated hospital is located, to assist the hospital in
35 arranging for the placement of the person in a designated facility,
36 as follows:

37 (1) Contact with the local or regional liaison may be initiated
38 when the treating emergency professional has medically stabilized
39 the person for placement in a designated facility.

1 (2) The hospital shall inform the county or the local or regional
2 liaison whether the person has a psychiatric emergency medical
3 condition that requires a transport of the person in accordance with
4 the EMTALA obligations for making an appropriate transfer.

5 (d) A nondesignated hospital shall make efforts to obtain
6 placement of the person in a designated facility without first
7 contacting the county or the local or regional liaison under this
8 section or in addition to requesting assistance that may be provided
9 by the county or the local or regional liaison.

10 5150.20. (a) The determination of probable cause to detain a
11 person for evaluation and treatment shall be independent of a
12 determination as to whether the person has a psychiatric emergency
13 medical condition for the provision of emergency services and
14 care.

15 (b) A determination of probable cause to detain a person for
16 evaluation and treatment, whether by a peace officer or an
17 authorized professional, shall not be deemed to constitute a
18 psychiatric emergency medical condition unless a treating
19 emergency professional or psychiatric professional has determined
20 that the person has a psychiatric emergency medical condition.

21 (c) A determination by a treating emergency professional or a
22 psychiatric professional that a person has a psychiatric emergency
23 medical condition shall not be deemed to constitute probable cause
24 under Section 5150 that the person may be detained for evaluation
25 and treatment.

26 (d) A determination by a treating emergency professional or a
27 psychiatric professional that a person detained for evaluation and
28 treatment does not have a psychiatric emergency medical condition,
29 or that the person's psychiatric emergency medical condition is
30 stabilized, shall not be deemed to constitute a release of the person
31 from detention for evaluation and treatment.

32 5150.21. (a) A nondesignated hospital and the professional
33 staff of the nondesignated hospital shall not be civilly or criminally
34 liable for the transfer of a person detained for evaluation and
35 treatment to a designated facility in accordance with this article.

36 (b) The peace officer or authorized professional responsible for
37 the detention of the person for evaluation and treatment who
38 transfers the custody of the person to an emergency professional
39 of a nondesignated hospital, shall not be civilly or criminally liable
40 for any of the following:

1 (1) The continuation and enforcement of the detention for
 2 evaluation and treatment during the person's stay in the emergency
 3 department of the nondesignated hospital prior to the discharge of
 4 the person from the hospital in accordance with this article.

5 (2) The release of the person from detention for evaluation and
 6 treatment in accordance with this article.

7 (3) The transfer of the person detained for evaluation and
 8 treatment to a designated facility in accordance with this article.

9 *(c) Nothing in this section shall exonerate a person described*
 10 *in this section from liability if that person acted with gross*
 11 *negligence or willful or wanton misconduct.*

12 ~~SEC. 17. Section 5150.25 is added to the Welfare and~~
 13 ~~Institutions Code, to read:~~

14 ~~5150.25. Nothing in this chapter supersedes or abrogates the~~
 15 ~~provisions governing medical control set forth in Chapter 5~~
 16 ~~(commencing with Section 1798) of Division 2.5 of the Health~~
 17 ~~and Safety Code.~~

18 SEC. 18. Article 1.2 (commencing with Section 5150.30) is
 19 added to Chapter 2 of Part 1 of Division 5 of the Welfare and
 20 Institutions Code, to read:

21
 22 Article 1.2. Voluntary Patients
 23

24 5150.30. (a) A provider of ambulance services licensed by the
 25 Department of the California Highway Patrol or operated by a
 26 public safety agency, and the employees of those providers who
 27 are certified or licensed under Section 1797.56 of the Health and
 28 Safety Code, shall be authorized to transport a person who is in a
 29 hospital or facility on a voluntary basis to a designated facility for
 30 psychiatric treatment. This section shall apply to transfers from
 31 any type of facility, including nondesignated hospitals and other
 32 facilities.

33 (b) A person shall not be detained for evaluation and treatment
 34 solely for the purpose of transporting the person, or transferring
 35 the person by a provider of ambulance services, to a designated
 36 facility or an emergency department of a nondesignated hospital.

37 (c) Not later than July 1, 2016, the department shall adopt and
 38 make available a standardized form that will enable voluntary
 39 patients to consent to transfer between facilities by a provider of
 40 ambulance services. The form shall be provided to voluntary

1 patients to sign before the transfer of the patient. The form shall
2 be kept in the patient's medical record. Copies of the form shall
3 be given to the patient and the provider of ambulance services.

4 (d) This section shall apply to all patients who are on voluntary
5 status, regardless of whether the person was previously detained
6 for evaluation and treatment at any point during the course of
7 treatment at a nondesignated hospital or designated facility prior
8 to the transfer.

9 (e) No person shall require a person to be subject to detention
10 for evaluation and treatment for the purpose of authorizing or
11 providing evaluation, treatment, or admission to a facility, or as a
12 condition for providing or paying for medical services, care, or
13 treatment, including emergency services and care, unless there is
14 probable cause under Section 5150 to detain the person for
15 evaluation and treatment and the person cannot be properly served
16 on a voluntary basis. Nothing in this part shall be construed as
17 preventing a person subject to detention for evaluation and
18 treatment from receiving evaluation or treatment on a voluntary
19 basis unless there has been an adjudication under this part that the
20 person lacks the capacity to do so.

21 SEC. 19. The heading of Article 1.3 (commencing with Section
22 5151) is added to Chapter 2 of Part 1 of Division 5 of the Welfare
23 and Institutions Code, to read:

24

25 Article 1.3. Admission to a Designated Facility

26

27 SEC. 20. Section 5151 of the Welfare and Institutions Code is
28 amended to read:

29 5151. (a) If a designated facility for evaluation and treatment
30 admits the person, it may detain him or her for evaluation and
31 treatment for a period not to exceed 72 hours from the time that
32 the person was initially detained pursuant to subdivision (a) of
33 Section 5150.

34 (b) Prior to admitting a person to the facility for evaluation and
35 treatment, the professional person in charge of the facility or his
36 or her designee shall conduct an assessment of the individual in
37 person to determine the appropriateness of the involuntary
38 detention.

39 SEC. 21. Section 5151.1 is added to the Welfare and
40 Institutions Code, to read:

1 5151.1. If the assessment results in a determination that the
2 person is in need of mental health services, but he or she is not
3 admitted to the facility, the designated facility shall provide the
4 person with appropriate referrals and a list of alternative services
5 and other resources that are appropriate to the needs of the person.
6 The alternative services and other resources shall include both of
7 the following, as applicable:

8 (a) The services described in subdivision (b) of Section 5150.

9 (b) The services for persons with severe mental illness and
10 substance use disorders posted by a county on its Internet Web
11 site pursuant to Section 5013.

12 SEC. 22. Section 5151.2 is added to the Welfare and
13 Institutions Code, to read:

14 5151.2. (a) Each county shall establish disposition procedures
15 and guidelines with local law enforcement agencies for the safe
16 and orderly transfer of persons detained for evaluation and
17 treatment by a peace officer, who has requested notification under
18 Section 5152.1 of the person's release from detention for evaluation
19 and treatment in accordance with Section 5150.15, 5150.16, or
20 5151. The disposition procedures and guidelines shall include
21 persons who are not admitted for evaluation and treatment and
22 who decline alternative mental health services and persons who
23 have a criminal detention pending.

24 (b) The disposition procedures and guidelines should include
25 interagency communication between law enforcement agencies
26 located within the county, as well as law enforcement agencies
27 located in other counties, that take or arrange to take persons
28 detained for evaluation and treatment under Section 5150 to health
29 facilities within the county. The disposition procedures and
30 guidelines, including updates, shall be disseminated to designated
31 facilities and nondesignated hospitals.

32 SEC. 23. Section 5152.1 of the Welfare and Institutions Code
33 is amended to read:

34 5152.1. (a) A designated facility or nondesignated hospital
35 shall notify the county mental health director, or the director's
36 designee, and the law enforcement agency that employs the peace
37 officer who makes the application for detention for 72-hour
38 evaluation and treatment pursuant to Section 5150, if the person
39 admitted pursuant to Section 5152 will be discharged after a
40 72-hour inpatient admission, when the person is not admitted by

1 the designated facility, when the person discharged before the
2 expiration of the 72-hour inpatient admission, when the person
3 discharged from detention for evaluation and treatment is released
4 under Section 5150.15, 5150.16, or 5151, or if the person elopes
5 from a designated facility or nondesignated hospital, if both of the
6 following conditions apply:

7 (1) The peace officer who made the application for detention
8 for evaluation and treatment requests notification of the person's
9 release or discharge at the time he or she makes the application
10 for detention for evaluation and treatment and the peace officer
11 certified at that time in writing that the person has been detained
12 for evaluation and treatment under circumstances which, based
13 upon an allegation of facts regarding actions witnessed by the
14 officer or another person, would support the filing of a criminal
15 complaint. The application for detention for evaluation and
16 treatment shall include one or more methods of contacting a person
17 at the law enforcement agency who may receive the notification.

18 (2) The notice is limited to the person's name, address, date of
19 admission or initial service, and date of release.

20 (b) If a police officer, law enforcement agency, or designee of
21 the law enforcement agency, possesses any record of information
22 obtained pursuant to the notification requirements of this section,
23 the officer, agency, or designee shall destroy that record two years
24 after receipt of notification.

25 (c) The notice required by this section shall be made prior to
26 the release or discharge of the person, if possible. The designated
27 facility or nondesignated hospital shall consider the distance from
28 the law enforcement agency to the location of the designated
29 facility or nondesignated hospital in giving the notice. The peace
30 officer or other representative of the law enforcement agency
31 receiving the notice shall promptly advise the designated facility
32 or nondesignated hospital whether the peace officer or other law
33 enforcement agency representative shall take custody of the person
34 upon his or her release or discharge from the designated facility
35 or nondesignated hospital and, if so, the time at which the peace
36 officer or other law enforcement agency representative will be
37 present at the designated facility or nondesignated hospital.

38 (d) Nothing in this section shall be construed to require the
39 designated facility or nondesignated hospital to delay the discharge

1 of a person for purposes of awaiting the arrival of the peace officer
2 or another representative of the law enforcement agency.

3 SEC. 24. Section 5152.2 of the Welfare and Institutions Code
4 is repealed.

5 SEC. 25. Section 5152.2 is added to the Welfare and
6 Institutions Code, to read:

7 5152.2. In addition to the request for notification set forth in
8 the application for detention for evaluation and treatment, each
9 law enforcement agency shall arrange with the county mental
10 health director for a method for designated facilities and
11 nondesignated hospitals to give prompt notification to peace
12 officers under Section 5152.1. The methods for notification for
13 each county shall be disseminated by the county to the designated
14 facilities and nondesignated hospitals located within the county.

15 SEC. 26. Section 5153 of the Welfare and Institutions Code is
16 amended to read:

17 5153. Whenever possible, officers charged with apprehension
18 of persons pursuant to this chapter shall dress in plain clothes and
19 travel in unmarked vehicles.

20 SEC. 27. Section 5270.50 of the Welfare and Institutions Code
21 is amended to read:

22 5270.50. (a) Notwithstanding Section 5113, if the provisions
23 of Section 5270.35 have been met, the professional person in
24 charge of the facility providing intensive treatment, his or her
25 designee, the medical director of the facility or his or her designee
26 described in Section 5270.53, the psychiatrist directly responsible
27 for the person's treatment, or the psychologist shall not be held
28 civilly or criminally liable for any action by a person released
29 before the end of 30 days pursuant to this article.

30 (b) The professional person in charge of the facility providing
31 intensive treatment or his or her designee, the medical director of
32 the facility or his or her designee described in Section 5270.35,
33 the psychiatrist directly responsible for the person's treatment, or
34 the psychologist shall not be held civilly or criminally liable for
35 any action by a person released at the end of the 30 days pursuant
36 to this article.

37 (c) The attorney or advocate representing the person, the
38 court-appointed commissioner or referee, the certification review
39 hearing officer conducting the certification review hearing, and
40 the peace officer responsible for detaining the person shall not be

- 1 civilly or criminally liable for any action by a person released at
- 2 or before the end of 30 days pursuant to this article.

O

Date of Hearing: April 28, 2015

ASSEMBLY COMMITTEE ON JUDICIARY

Mark Stone, Chair

AB 1300
(Ridley-Thomas) - As Amended April 23, 2015

As Proposed to be Amended

SUBJECT: MENTAL HEALTH: INVOLUNTARY COMMITMENT

KEY ISSUE: SHOULD NON-DESIGNATED HOSPITALS AND THE PHYSICIANS, AND PROFESSIONAL STAFF WHO WORK IN THOSE HOSPITALS, BE GIVEN QUALIFIED IMMUNITY FOR THEIR DECISIONS RELATED TO THE EVALUATION OF WHETHER A PERSON IS A DANGER TO SELF OR OTHERS AND THEREFORE APPROPRIATELY DETAINED FOR A 72-HOUR MENTAL HEALTH HOLD TO PROTECT NON-DESIGNATED HOSPITALS AND THEIR PROFESSIONAL STAFF FROM ORDINARY NEGLIGENCE, BUT NOT FROM GROSS NEGLIGENCE OR WANTON OR WILLFULL MISCONDUCT?

SYNOPSIS

This bill, co-sponsored by the California Hospital Association, California Chapter of the American College of Emergency Physicians, and the Association of California Healthcare Districts, makes a number of changes, most of which are technical, to the law governing involuntary commitment to mental health facilities pursuant to Welfare and Institutions Code Sections 5150 and 5152. Many of the bill's technical aspects were addressed in the analysis of the Assembly Health Committee,

which recently approved the bill by an 18-0 vote (with one abstention). There are two main issues before this Committee. First, should the 72-hour detention period for the hold pursuant to Section 5150 of the Welfare and Institutions Code start when the person is detained by a peace officer, or when the person is admitted to a designated facility for treatment? Second (and more significantly), is it appropriate to provide qualified immunity to non-designated hospitals (those which are not specifically designated by the county (and therefore "designated facilities") for evaluation of whether a person is a danger to

self or others, or is greatly disabled, and therefore appropriately detained in the facility for a 72-hour hold for acute mental health treatment? While existing law provides immunity to public agencies (which includes public hospitals) and their employees for the involuntary detention of persons, including the enforcement and release of detainment to the extent that the facility or employee acts in accordance with requirements of the Lanterman-Petris-Short (LPS) Act in detaining a person, and enforcing or releasing the detention (Government Code Section 856), no such immunity is provided to non-designated facilities or their employees. The author and sponsors contend that the immunity provisions for designated hospitals were drafted at a time when the state hospital system was used for acute mental health treatment and persons in mental health crisis were not often seen in non-designated facilities. The situation has changed in the past 52 years, according to the author, so that non-designated facilities routinely encounter these patients and need to make decisions about whether to request detention by law enforcement, or release the patients. The bill originally proposed that non-designated hospitals, physicians, and all staff at the hospitals would be granted complete immunity from liability in dealing with these patients. Opponents, including the Consumer Attorneys of California and NAMI California, reasonably observed that this is extremely broad immunity that would immunize even grossly negligent acts from any civil liability. With these concerns in mind, the author has agreed to amend the bill to provide qualified immunity to non-designated hospitals and certain personnel who encounter persons who are in acute mental health crisis. The

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bill is supported by numerous hospitals and medical organizations. It is opposed by Consumer Attorneys of California and NAMI California and the California State Association of Counties and the County Behavioral Health Directors Association have expressed concerns about the bill. This analysis reflects the bill as it is proposed to be amended.

SUMMARY: Makes numerous changes to the provisions regarding evaluation procedures, terms and lengths of detention, and criteria for release and transfer protocol related to the involuntary detention of individuals and enacts a number of provisions providing qualified immunity to a physician, employee, or other staff person acting within the scope of his or her official duties or employment for a designated facility or nondesignated hospital from civil and criminal liability. Among other things, this bill:

- 1) Defines "authorized professional" as a mental health professional who is authorized in writing by a county to provide services related to the evaluation, treatment, or transfer of an individual who is a danger to himself, herself, or others or who is gravely disabled.
- 2) Requires an authorized professional to have appropriate training in mental health disorders and determination of probable cause, and in providing services to persons with mental health disorders.
- 3) Defines a "designated facility" as a facility or a specific unit or part of a facility that is licensed or certified as a

mental health evaluation facility, a mental health treatment facility, or a mental health evaluation and treatment facility.

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- 4) Requires persons providing evaluation services to be properly qualified professionals and may be full-time employees, part-time employees, or independent contractors of a county, designated facility, or other agency providing face-to-face evaluation services.
- 5) Defines "probable cause determination" to mean a determination of whether there is probable cause for the detention of a person and requires that a probable cause determination be based solely on the criteria for detaining a person for evaluation and treatment when a person, as a result of a mental health disorder, is a danger to others, or him or herself, or gravely disabled.
- 6) Prohibits a probable cause determination from considering the availability of beds or services at designated facilities within or outside of the county.
- 7) Specifies that the period of 72-hour detention for evaluation and treatment begins at the time that the person is initially detained.
- 8) Requires that when an individual is detained and taken to a designated facility for evaluation and treatment, the individual shall be assessed to determine whether he or she can be properly served without being detained.
- 9) Requires a person to be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis if it is determined that he or she can be served without being detained.

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- 10) Specifies that if a detained individual is first taken to the emergency department (ED) of a non-designated hospital, the person should be detained only for the time necessary to ensure the patient is medically stable.

- 11) Prohibits mental health personnel from instructing a peace officer or authorized professional employee of an emergency transport provider acting at the direction of a peace officer seeking to transport a person to a designated facility for assessment to take the person to a jail solely because of the unavailability of an acute bed.
- 12) Prohibits a peace officer or other authorized professional employee of an emergency transport provider from being detained any longer than the time necessary to complete documentation of the factual basis of the detention for evaluation and safely complete the transfer of physical custody of the person.
- 13) Requires a peace officer, or an authorized professional who takes a person into custody, to complete and sign an application for detention for evaluation and treatment, stating the circumstances under which the person's condition was called to the attention of the peace officer or authorized professional, and stating that the peace officer or authorized professional has probable cause to believe that the person is, as a result of a mental health disorder, a danger to others, or to himself or herself, or gravely disabled.
- 14) Requires the presentation of the application to a designated facility or nondesignated hospital as a condition of continuation of the detention for evaluation and treatment; if the application is not presented to the designated facility or nondesignated hospital, as applicable, the person must be immediately released from detention for evaluation and

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treatment.

- 15) Requires that, in the case that a person detained by a peace officer or authorized professional is in a location other than a designated facility or nondesignated hospital, the original or copy of the application for detention for evaluation and treatment be presented to the designated facility where the individual is transported.
- 16) Allows a treating emergency professional to initiate a follow-up probable cause determination if the emergency professional determines that there is no longer probable cause to continue the detention for evaluation and treatment.
- 17) Requires that the determination to release a person from detention for evaluation and treatment be based solely on whether there is probable cause to continue the detention for evaluation and treatment.
- 18) Prohibits the determination to continue the detention or to release the person from detention from being based on the availability of beds or services at designated facilities within or outside of the county, or on anything other than whether there is probable cause for detention.

19) Requires each county to establish disposition procedures and guidelines with local law enforcement agencies for the safe and orderly transfer of persons detained for evaluation and treatment by a peace officer.

20) Requires the determination of probable cause to detain a person for evaluation and treatment to be independent of a determination as to whether the person has a psychiatric

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emergency medical condition requiring emergency services and care.

21) Prohibits a determination of probable cause to detain a person for evaluation and treatment by a peace officer or an authorized professional from being deemed a psychiatric emergency medical condition unless a health care professional has determined that the person has a psychiatric emergency medical condition.

22) Prohibits a determination by a treating emergency professional or a psychiatric professional that an individual has a psychiatric emergency medical condition from being the only reason to establish probable cause and therefore consider an individual eligible to be detained for evaluation and treatment.

23) Prohibits a determination by a treating emergency professional or a psychiatric professional that a person detained for evaluation and treatment does not have a psychiatric emergency medical condition, or that the person's psychiatric emergency medical condition is stabilized, from being the only reason a person is eligible for release from detention for evaluation and treatment.

24) Provides qualified immunity to a designated facility or nondesignated hospital or a physician, employee, or other staff person from civil or criminal liability for any injury resulting from evaluation or providing services with care, as specified.

25) Provides qualified immunity to a nondesignated hospital and the professional staff of the nondesignated hospital from civil or criminal liability for the transfer of a person

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detained for evaluation and treatment to a designated facility.

- 26) Provides qualified immunity to an emergency transport provider from civil or criminal liability for the continuation of the detention for evaluation and treatment while transporting the person to a designated facility at the direction of a peace officer who detained the person for evaluation and treatment, as specified.
- 27) Provides qualified immunity to a peace officer or authorized professional responsible for the detention of the person who transfers the custody of the person from civil or criminal liability for the continuation of detention during the person's stay in the ED prior to the discharge of the person from the hospital or the release of the person from detention.
- 28) Provides qualified immunity to the professional person in charge of the facility providing intensive treatment, the medical director of the facility, the psychiatrist directly responsible for the person's treatment, or the psychologist from civil or criminal liability for any action by a person prematurely released from detention.
- 29) Provides qualified immunity to the attorney or advocate representing the person, the court-appointed commissioner or referee, the certification review hearing officer conducting the certification review hearing, and the peace officer responsible for detaining the person from civil or criminal liability for any action by a person released at or before the end of 30 days pursuant to this article.
- 30) Provides qualified immunity to a provider of ambulance services licensed by the Department of the California Highway

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Patrol or operated by a public safety agency, to transport a person who is in a hospital or facility on a voluntary basis to a designated facility for psychiatric treatment.

- 31) Prohibits a person from being detained for evaluation and treatment solely for the purpose of transporting the person, or transferring the person by a provider of ambulance services, to a designated facility or an ED of a nondesignated hospital.
- 32) Prohibits an individual from being subject to detention for the purpose of authorizing or providing evaluation, treatment, or admission to a facility, or as a condition for providing or paying for medical services, care, or treatment, unless there is probable cause to detain the person for evaluation and treatment and the person cannot be properly served on a voluntary basis.

EXISTING LAW:

- 1) Declares the intent of the Legislature to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, and to eliminate legal disabilities. (Welfare and Institutions Code Section 5100. All further statutory references are to the California Welfare and Institutions Code, unless otherwise indicated.)
- 2) Authorizes a peace officer, member of the attending staff of an evaluation facility designated by the county for evaluation and treatment ("designated facility"), member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, or other professional person designated by the county, upon probable cause, to take

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a person with a mental disorder who is a danger to himself or others, or who is gravely disabled, into custody and place him in a facility designated by the county. (Section 5150(a).)

- 3) Requires facilities, for the purposes of a 72-hour treatment and evaluation, to be designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. (Section 5150(a).)
- 4) Requires that a person who is taken into custody for a 72-hour treatment and evaluation be provided an oral advisement that informs the person of:
 - a) The name of the officer or mental health professional authorizing custody;
 - b) The fact that the person is not under criminal arrest, but under a mental health examination;
 - c) Where the evaluation will take place;
 - d) That he or she may take a few personal items; and
 - e) That he or she may make a phone call or leave a note to inform family and friends where he or she has been taken. (Section 5157.)
- 1) Requires that a person who is admitted for a 72-hour evaluation and treatment be provided with the following information in writing:
 - a) That he or she is being placed in the psychiatric unit because he or she may hurt himself or herself, or others, or be unable to take care of himself or herself, as specified;
 - b) A listing of the facts upon which the above allegation is based;
 - c) That he or she will be held for a period of up to 72

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- hours, and when that period will begin;
- d) That he or she may be held for a longer period of time; and
- e) His or her right to a lawyer, as specified. (Section 5157.)

2) Authorizes the county mental health director to develop procedures for the county's designation and training of professionals who would perform LPS Act functions including:

- a) License types, practice disciplines, and clinical experience of professionals;
- b) Initial and ongoing training and testing requirements for professionals;
- c) 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; and
- d) The county's process for monitoring and reviewing these professionals to ensure appropriate compliance with state law, regulations, and county procedures. (Section 5121.)

1) Provides immunity to public agencies (which includes public hospitals) and their employees for the involuntary detention of persons, including the enforcement and release of detainment to the extent that the facility or employee acts in accordance with requirements of LPS in detaining a person, and enforcing or releasing the detention. (Government Code Section 856.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.
COMMENTS: The Lanterman-Petris-Short (LPS) Act was enacted in the 1960s to develop a statutory process under which individuals

could be involuntarily held and treated in a mental health facility in a manner that safeguarded their constitutional rights. The LPS Act was intended to balance the goals of maintaining the constitutional right to personal liberty and choice in mental health treatment, with the goal of safety when an individual may be a danger to oneself or others, or is gravely disabled.

At the time of its enactment, the LPS Act was considered progressive because it afforded the mentally disordered more legal rights than most other states. Since its passage in 1967 the law in the field of mental health has continued to evolve toward even greater legal rights for mentally disordered persons.

Need for the bill. Co-sponsors of the bill, the California Chapter of the American College of Emergency Physicians and the Association of California Healthcare Districts, state in support of the bill that district hospitals see the results of the variance in application of the LPS Act across the state - which results in individuals with mental illness languishing for hours, days and weeks awaiting psychiatric assessment and treatment in their hospitals. Supporters note that this measure increases the emphasis on the prompt provision of services in both LPS-designated and non-LPS designated facilities.

The California Medical Association adds in support that the current system is failing psychiatric patients by forcing them through a fragmented medical delivery system that is inefficient and wastes valuable ED resources. No one benefits when a patient waits for days in an ED waiting for treatment. This bill will remedy this situation, resulting in benefits to patients in need of psychiatric treatment and to our state's EDs.

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Commencement of the 72-hour clock start for detention. This bill indicates that that the period of 72-hour detention for evaluation and treatment shall begin at the time that the person is initially detained. While it is possible that the person may not receive a full 72 hours of medical care because some of that time will be taken up between the time when the person is taken into custody by a peace officer or other authorized individual and the time when the person is actually treated, it would be inappropriate to not start the clock until the person is assessed at a treatment facility. Balancing the desire to ensure the most appropriate care for individuals, while protecting their civil liberties, it seems appropriate to start the clock when the individual is taken into the custody of a peace officer. This method of calculating the total time allowed for the person's detention also incentivizes timely transport of the person to the treatment facility. It is also consistent with the Legislature's intent to "provide prompt evaluation and treatment of persons with mental health disorders." (Section 5001(b).)

Qualified immunity provisions are logical and consistent with other California statutes. Explaining the need for qualified immunity for medical professionals working in or with non-designated hospitals, the bill's co-sponsor, the California Hospital Association, writes:

The purpose of the immunity statutes is to protect the discretionary nature of the evaluation so that the professionals can be guided by their medical judgment and not the fear of liability. To do so, the statute must protect those who decide to involuntarily commit a patient as well as those who decide not to involuntarily commit a patient and to release an individual.

Recognizing that psychiatry is not an exact science, the United States Supreme Court has recognized that "the

subtleties and nuances of psychiatric diagnoses render certainties virtually beyond reach in most situations." Unlike other health care providers, whose diagnoses can be verified at the outset by a CAT scan, MRI, x-ray, blood tests, palpation and surgery, psychiatric and mental health professionals cannot verify their diagnoses, treatment or discretionary judgment, except through hindsight.

Co-sponsor, the California Chapter of the American College of Emergency Physicians (California ACEP), adds:

When enacted, the LPS Act granted immunity to psychiatrists in designated facilities. Extending the qualified immunity to emergency physicians modernizes the Act, given that most patients with mental health conditions are now receiving care in emergency departments in non-designated facilities.

Like so many other state approaches, this bill immunizes certain hospital personnel who provide services in conjunction with the detention process pursuant to Section 5150 et seq. from negligent actions when seeking to assist others in peril, but it logically does not immunize actions that are grossly negligent or outright reckless. This balanced approach, which encourages assistance to individuals in crisis by shielding staff on the Section 5150 response team from liability for ordinary negligence, but not from either gross negligence, or willful or wanton conduct, is reflective of the approach taken by many other statutes in state law. For example, a Good Samaritan who pulls an accident victim from an automobile is shielded from liability for inadvertently, but negligently causing physical injury to the injured person. (Health and Safety Code, Section 1799.102(b)(2).) On the other hand, if that person then attempted to choke or strike the injured person, the Good Samaritan would not be completely free from potential responsibility for the harm he or she caused.

The "gross negligence or willful and wanton conduct" proviso in the bill also appears to be completely consistent with other existing California statutes that grant qualified immunity to various professionals who render emergency care voluntarily, without expectation of compensation, and outside of the scope of their employment. (See, e.g., Bus. & Prof. Code sections 2727.5 and 2861.5 [emergency care rendered by nurses outside the scope of their employment]; Bus & Prof. Code section 3503.5 [emergency care rendered by physicians' assistants outside the scope of their employment]; Health and Safety Code, Section 1799.102

[person who renders emergency medical or nonmedical care at the scene of an emergency].)

As originally in print, the bill provided virtually complete immunity from liability to hospital and emergency personnel who provide services in conjunction with the detention process pursuant to Section 5150 et seq. at private hospitals. With the addition of language that is standard in other qualified immunity statutes, "Nothing in this section shall exonerate from liability a person described in this section who acted with gross negligence or willful or wanton misconduct," these individuals are immunized from liability for ordinary negligence, but not from either gross negligence, or willful or wanton conduct.

Regarding the bill's original immunity provisions, the Consumer Attorneys of California wrote:

While we support the goal of consistent statewide practices, we must oppose the broad immunity provisions as they undermine public safety.

AB 1300 provides immunity for the transportation and elopement of detained individuals. The National Institute

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for Elopement Prevention defines elopement as follows, "When a patient or resident who is cognitively, physically, mentally, emotionally, and/or chemically impaired; wanders away, walks away, runs away, escapes, or otherwise leaves a caregiving facility or environment unsupervised, unnoticed, and/or prior to their scheduled discharge." Facilities who care for these detained, high risk individuals must take the appropriate precautions to prevent this from occurring. These facilities should not be immune from negligent, gross negligent or even intentional acts that can place detained mentally ill individuals in danger.

Once you take someone's liberty, even for good cause, you must be required to provide reasonable care for their safety.

NAMI California expressed similar concerns with the immunity provisions, stating that, "By removing liability from hospitals, an individual, or family of an individual, harmed by the actions of a facility will have no recourse, and significant incentives to provide quality care to patients experiencing psychiatric crises are removed."

These concerns should be significantly mitigated by the author's agreement to limit the immunity provisions in the bill.

Because the intent of the bill is to provide qualified immunity to certain hospital and emergency personnel who provide certain services in conjunction with Section 5150 detention process at private hospitals and it is intent of the Legislature to

"provide prompt evaluation and treatment of persons with mental health disorders" (Section 5001(b)) and to "encourage the full use of all existing agencies, professional personnel, and public

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funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures" (Section 5001 (f)), it is appropriate to provide these individuals with qualified immunity from liability.

Prior similar legislation. SB 364 (Steinberg), Chapter 567, Statutes of 2013 - revised the law related to 72-hour treatment and evaluation for individuals with a mental health disorder by adding to the types of facilities that a county is allowed to designate to provide services and allowing county mental health directors to develop procedures for the designation and training of professionals who can perform functions of detention, evaluation, and treatment of persons subject to Section 5150.

AB 110 (Blumenfield), Chapter 20, Statutes of 2013 - enacted the 2013-14 Budget Act, which includes, among its other provisions, \$206 million (\$142 million General Fund one-time) for a major investment in mental health services, including additional residential treatment capacity, crisis treatment teams, and triage personnel.

SB 585 (Steinberg), Chapter 288, Statutes of 2013 - clarified that Mental Health Services Act funds and various County Realignment accounts may be used to provide mental health services under the Assisted Outpatient Treatment Demonstration Project Act of 2002, or Laura's Law, and allows counties to opt to implement Laura's Law through the county budget process.

SB 1381 (Pavley), Chapter 457, Statutes of 2012 - deleted in state law references to "mental retardation" or a "mentally retarded person" and instead replaces them with "intellectual disability" or "a person with an intellectual disability."

SB 665 (Petris), Chapter 681, Statutes of 1991 - established the right, under the LPS Act, to refuse antipsychotic medication and establishes hearing procedures to determine a person's capacity

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to refuse treatment with antipsychotic medication.

AB 2541 (Bronzan and Mojonnier), Chapter 1286, Statutes of 1985 - authorized county mental health programs to initiate services

to various target populations, requires various studies and planning activities, and prohibits mental health personnel from instructing law enforcement personnel to take individuals detained for mental health evaluations to jail solely due to the unavailability of a mental health facility bed.

AB 1424 (Thomson), Chapter 506, Statutes of 2001- made various changes to the LPS Act to: increase the involvement of family members in commitment hearings for the mentally ill; require more use of a patient's medical and psychiatric records in these hearings; and prohibit health plans and insurers from using the commitment status of a mentally ill person to determine eligibility for claim reimbursement.

SB 677 (Lanterman, Petris, and Short), Chapter 1667, Statutes of 1967 - enacted the LPS Act, which governs involuntary civil commitment for individuals with mental illness, with the intent to end inappropriate, indefinite, and involuntary commitment and provide for prompt evaluation and treatment.

REGISTERED SUPPORT / OPPOSITION:

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Support

California Hospital Association (co-sponsor)

California Chapter of the American College of Emergency Physicians (co-sponsor)

Alameda Health System

Antelope Valley Hospital

Aurora Vista del Mar Hospital

California Medical Association

Citrus Valley Health Partners

Cottage Health System

Dignity Health

District Hospital Association

El Camino Hospital

Emergency Nurses Association

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Fremont Hospital

Good Samaritan Hospital - Bakersfield

Good Samaritan Hospital, San Jose

Henry Mayo Newhall Hospital

John Muir Health

Long Beach Memorial Hospital

Mad River Community Hospital

Madera Community Hospital

Mammoth Hospital

Miller Children's & Women's Hospital Long Beach

Mission Community Hospital

O'Connor Hospital Parkview Community Hospital Medical Center

Pomona Valley Hospital

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Redlands Community Hospital
Ridgecrest Regional Hospital
Saint Louise Regional Hospital
San Geronio Memorial Hospital
Sharp HealthCare
Sierra View Medical Center
Southwest Healthcare System
Stanford Health Care
White Memorial Medical Center

Opposition

Consumer Attorneys of California

NAMI California (Oppose unless amended)

AB 1300

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Concerns

California State Association of Counties

County Behavioral Health Directors Association

Analysis Prepared by: Alison Merrilees / JUD. / (916) 319-2334



April 22, 2015

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The Honorable Mark Stone
Chair, Assembly Judiciary Committee
State Capitol, Room 5155
Sacramento, CA 95814

**Re: AB 1300 (Ridley-Thomas) – Mental Health: Involuntary Commitment
As Amended on April 13, 2015 – CONCERNS
Awaiting Hearing in Assembly Judiciary Committee**

Dear Assembly Member Stone:

The California State Association of Counties (CSAC) represents the Board of Supervisors of California's 58 counties, and we are writing to you today with CONCERNS about AB 1300 by Assembly Member Sebastian Ridley-Thomas.

AB 1300 represents a major reworking of the Lanterman-Petris-Short Act (LPS) and the protections and procedures in place for individuals who are suffering from a mental health emergency and may be detained for up to 72 hours if they are assessed by a behavioral health clinician as posing a danger to themselves or others. This process is often referred to as the "5150" process, a reference to the procedures and rights outlined in section 5150 of the California Welfare and Institutions Code.

The 5150 process was enacted to enable people with mental health disorder needs to obtain assessment, referral and treatment as appropriate in the least restrictive setting as possible. It is a complex process that often involves family members, law enforcement, mobile emergency medical services, hospital emergency rooms and medical staff, mobile crisis teams, the county behavioral health director, county- and community-based treatment facilities, and numerous other professionals dedicated to treating people in crisis.

Changes enacted at the state and federal level since 2011 have significantly impacted the systems and services associated with the 5150 process, including:

- The enactment of 2011 Realignment, wherein county law enforcement, probation, mental health, and human services departments were all tasked with increasing positive outcomes for current and former county jail inmates;
- SB 364 (Chapter No. 567, Statutes of 2013, authored by Senator Darrell Steinberg), enacted in 2013, increased the types of facilities that can be designated by counties for 5150 assessment, treatment, and holds, clarified LPS Act terminology, and encouraged additional training for personnel.

- SB 82, the Investment in Mental Health Wellness Act of 2013 (Chapter No. 34, Statutes of 2013, presented by the Senate Committee on Budget and Fiscal Review), earmarked more than \$180 million in state General Fund and Mental Health Services Act funds for mental health crisis support programs, including crisis intervention, crisis stabilization, crisis residential treatment, rehabilitative mental health services, and mobile crisis support.
- SB 1054 (Chapter No. 436, Statutes of 2014, authored by Senator Darrell Steinberg), enacted in 2015 re-establishing the Mentally Ill Offender Crime Reduction (MIOCR) Grant program that supports the implementation and evaluation of locally developed demonstration projects designed to reduce recidivism among persons with mental illness. The 2014-15 budget included \$18 million for the MIOCR program.

To date, more than 23 counties have accessed SB 82 grant funding with the goal of creating an additional 2,000 crisis stabilization and crisis residential beds, 25 mobile response teams, and 600 crisis triage personnel.

The above recent efforts by the Legislature and Administration reflect the state and counties' commitment to providing timely treatment and services to those in crisis. The SB 82 funding alone is transforming how county behavioral health and local law enforcement approach the people that both systems serve. By pairing clinicians with deputies in some of the county mobile crisis team models, the SB 82 grant funding has destroyed the silos that had occasionally contributed to long wait times, delays in treatment, and mismanagement of the LPS 5150 process.

A core issue for law enforcement, county behavioral health, and hospitals is the dearth of sufficient psychiatric bed space in California. CSAC has worked at the state and national levels to encourage the creation of more bed space and address the complicated and limiting funding mechanisms associated with Institutes of Mental Disease (IMD). Counties are also accessing the SB 82 funds for brick-and-mortar facilities and providing more flexible crisis intervention and prevention programs – such as 24-hour crisis stabilization services as opposed to the more restrictive 72-hour LPS holds – to address the bed space issue.

Combined, these efforts have nearly transformed the provision of services for those in a mental health crisis. And this leads to our concerns with AB 1300, a measure sponsored by the California Hospital Association to further amend the LPS process.

Specific provisions of the bill that are of particular concern to counties include, but are not limited to, the following:

- the move to authorize counties to designate local or regional liaisons to assist a person who is a patient in an emergency department and who has been detained or will require detention,

- attempting to change the process and liability for detaining individuals for evaluation and treatment,
- reworking how and when individuals can be transferred between facilities and by whom,
- and implementing a new definition of when the 72-hour hold “clock” starts.

Each of these proposed changes in AB 1300 would reduce the treatment time for those in mental health crisis by condensing the 72-hour hold clock and imposing other arbitrary timelines on the stabilization, assessment, transportation, and levels of treatment provided to individuals.

AB 1300 moves in the opposite direction of the progress made in the last four years by imposing and creating new silos, costs, and liabilities surrounding the timely treatment for mentally ill individuals. Counties believe that the recent additional funding, innovative programming, and a focus on increasing psychiatric bed space have all contributed to a more robust and responsible 72-hour hold process in California. It is for these reasons that we relay our concerns about AB 1300 as amended today. Should you have any questions about our concerns, please do not hesitate to contact me at 650-81110, or fmcdaid@counties.org. Thank you.

Sincerely,

As signed

Farrah McDaid Ting
Legislative Representative

cc: Honorable Members, Assembly Judiciary Committee
The Honorable Sebastian Ridley-Thomas, Member, California State Assembly
Alison Merrilees, Consultant, Assembly Judiciary Committee
Paul Dress, Consultant, Assembly Republican Caucus
Robert Oakes, California Behavioral Health Directors Association
Judith Reigel, County Health Executives Association of California
Aaron Maguire, California State Sheriffs Association
Erica Murray, California Public Hospitals Association
Diana S. Dooley, Secretary, California Health and Human Services Agency
Karen Baylor, Deputy Director, Department of Health Care Services
Donna Campbell, Deputy Legislative Secretary, Office of the Governor
The Steinberg Institute

AMENDED IN ASSEMBLY MARCH 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 13

Introduced by Assembly Member Chávez

December 1, 2014

An act to amend Section 76140 of the Education Code, relating to public postsecondary education, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Chávez. Public postsecondary education: community colleges: exemptions from nonresident tuition.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public higher education in the state. Existing law generally requires community college districts to charge a tuition fee to nonresident students, but exempts specified community college students from paying that nonresident tuition fee.

This bill would additionally exempt nonresident students *living in California and* enrolled at a community college who are *covered individuals, as defined in a specified federal statute*, using, or are intending to use, Federal GI Bill education benefits, as specified, to cover the costs associated with enrollment as a community college student.

This bill would authorize community college districts to report students exempted from nonresident tuition under this bill as resident full-time equivalent students for purposes of calculating ~~apportionments-~~ *apportionments* to those districts.

To the extent that this bill would place additional requirements on community college districts regarding the provision of postsecondary education benefits to ~~additional categories of~~ *certain* students, the bill would impose a state-mandated local program.

(2) 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 these statutory provisions.

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 76140 of the Education Code is amended
2 to read:

3 76140. (a) A community college district may admit, and shall
4 charge a tuition fee to, nonresident students, except that a
5 community college district may exempt from all or parts of the
6 fee any person described in paragraph (1), (2), (3), or (4), and shall
7 exempt from all of the fee any person described in paragraph (5)
8 or (6):

9 (1) All nonresidents who enroll for six or fewer units.
10 Exemptions made pursuant to this paragraph shall not be made on
11 an individual basis.

12 (2) Any nonresident who is both a citizen and resident of a
13 foreign country, if the nonresident has demonstrated a financial
14 need for the exemption. Not more than 10 percent of the
15 nonresident foreign students attending any community college
16 district may be so exempted. Exemptions made pursuant to this
17 paragraph may be made on an individual basis.

18 (3) (A) A student who, as of August 29, 2005, was enrolled,
19 or admitted with an intention to enroll, in the fall term of the
20 2005–06 academic year in a regionally accredited institution of
21 higher education in Alabama, Louisiana, or Mississippi, and who
22 could not continue his or her attendance at that institution as a

1 direct consequence of damage sustained by that institution as a
2 result of Hurricane Katrina.

3 (B) The chancellor shall develop guidelines for the
4 implementation of this paragraph. These guidelines shall include
5 standards for appropriate documentation of student eligibility to
6 the extent feasible.

7 (C) This paragraph shall apply only to the 2005–06 academic
8 year.

9 (4) A special part-time student admitted pursuant to Section
10 76001.

11 (5) A nonresident student who is a United States citizen who
12 resides in a foreign country, if that nonresident meets all of the
13 following requirements:

14 (A) Demonstrates a financial need for the exemption.

15 (B) Has a parent or guardian who has been deported or was
16 permitted to depart voluntarily under the federal Immigration and
17 Nationality Act in accordance with Section 1229c of Title 8 of the
18 United States Code. The student shall provide documents from the
19 United States Citizenship and Immigration Services evidencing
20 the deportation or voluntary departure of his or her parent or
21 guardian.

22 (C) Moved abroad as a result of the deportation or voluntary
23 departure specified in subparagraph (B).

24 (D) Lived in California immediately before moving abroad. The
25 student shall provide information and evidence that demonstrates
26 the student previously lived in California.

27 (E) Attended a public or private secondary school, as described
28 in Sections 52 and 53, in the state for three or more years. The
29 student shall provide documents that demonstrate his or her
30 secondary school attendance.

31 (F) Upon enrollment, will be in his or her first academic year
32 as a matriculated student in California public higher education, as
33 that term is defined in subdivision (a) of Section 66010, will be
34 living in California, and will file an affidavit with the institution
35 stating that he or she intends to establish residency in California
36 as soon as possible.

37 (6) A nonresident student who is *a covered individual as defined*
38 *pursuant to Section 702 of the federal Veterans Access, Choice,*
39 *and Accountability Act of 2014 (Public Law 113-146), as it read*
40 *on July 1, 2015, who is using, or is intending to use, GI Bill*

1 education benefits while *living in California and* enrolled at a
2 community college. As used in this paragraph, “GI Bill education
3 benefits” refers to any education benefit administered by the United
4 States Department of Veterans Affairs pursuant to Title 38 of the
5 United States Code that is designed to help eligible veterans of the
6 Armed Forces of the United States or ~~other-eligible persons with~~
7 *persons eligible for those benefits because of* a relationship to a
8 veteran of the Armed Forces of the United States to cover the costs
9 associated with enrollment as a community college student.

10 (b) A district may contract with a state, a county contiguous to
11 California, the federal government, or a foreign country, or an
12 agency thereof, for payment of all or a part of a nonresident
13 student’s tuition fee.

14 (c) Nonresident students shall not be reported as full-time
15 equivalent students (FTES) for state apportionment purposes,
16 except as provided by subdivision (j) or another statute, in which
17 case a nonresident tuition fee may not be charged.

18 (d) The nonresident tuition fee shall be set by the governing
19 board of each community college district not later than February
20 1 of each year for the succeeding fiscal year. The governing board
21 of each community college district shall provide nonresident
22 students with notice of nonresident tuition fee changes during the
23 spring term before the fall term in which the change will take
24 effect. Nonresident tuition fee increases shall be gradual, moderate,
25 and predictable. The fee may be paid in installments, as determined
26 by the governing board of the district.

27 (e) (1) The fee established by the governing board pursuant to
28 subdivision (d) shall represent for nonresident students enrolled
29 in 30 semester units or 45 quarter units of credit per fiscal year
30 one or more of the following:

31 (A) The amount that was expended by the district for the
32 expense of education as defined by the California Community
33 College Budget and Accounting Manual in the preceding fiscal
34 year increased by the projected percent increase in the United
35 States Consumer Price Index as determined by the Department of
36 Finance for the current fiscal year and succeeding fiscal year and
37 divided by the FTES (including nonresident students) attending
38 in the district in the preceding fiscal year. However, if for the
39 district’s preceding fiscal year FTES of all students attending in
40 the district in noncredit courses is equal to, or greater than, 10

1 percent of the district's total FTES attending in the district, the
2 district may substitute the data for expense of education in grades
3 13 and 14 and FTES in grades 13 and 14 attending in the district.

4 (B) The expense of education in the preceding fiscal year of all
5 districts increased by the projected percent increase in the United
6 States Consumer Price Index as determined by the Department of
7 Finance for the fiscal year and succeeding fiscal year and divided
8 by the FTES (including nonresident students) attending all districts
9 during the preceding fiscal year. However, if the amount calculated
10 under this paragraph for the succeeding fiscal year is less than the
11 amount established for the current fiscal year or for any of the past
12 four fiscal years, the district may set the nonresident tuition fee at
13 the greater of the current or any of the past four-year amounts.

14 (C) An amount not to exceed the fee established by the
15 governing board of any contiguous district.

16 (D) An amount not to exceed the amount that was expended by
17 the district for the expense of education, but in no case less than
18 the statewide average as set forth in subparagraph (B).

19 (E) An amount no greater than the average of the nonresident
20 tuition fees of public community colleges of no less than 12 states
21 that are comparable to California in cost of living. The
22 determination of comparable states shall be based on a composite
23 cost-of-living index as determined by the United States Department
24 of Labor or a cooperating government agency.

25 (2) The additional revenue generated by the increased
26 nonresident tuition permitted under the amendments made to this
27 subdivision during the 2009–10 Regular Session shall be used to
28 expand and enhance services to resident students. In no event shall
29 the admission of nonresident students come at the expense of
30 resident enrollment.

31 (f) The governing board of each community college district also
32 shall adopt a tuition fee per unit of credit for nonresident students
33 enrolled in more or less than 15 units of credit per term by dividing
34 the fee determined in subdivision (e) by 30 for colleges operating
35 on the semester system and 45 for colleges operating on the quarter
36 system and rounding to the nearest whole dollar. The same rate
37 shall be uniformly charged nonresident students attending any
38 terms or sessions maintained by the community college. The rate
39 charged shall be the rate established for the fiscal year in which
40 the term or session ends.

1 (g) Any loss in district revenue generated by the nonresident
2 tuition fee shall not be offset by additional state funding.

3 (h) Any district that has fewer than 1,500 FTES and whose
4 boundary is within 10 miles of another state that has a reciprocity
5 agreement with California governing student attendance and fees
6 may exempt students from that state from the mandatory fee
7 requirement described in subdivision (a) for nonresident students.

8 (i) Any district that has more than 1,500, but less than 3,001,
9 FTES and whose boundary is within 10 miles of another state that
10 has a reciprocity agreement with California governing student
11 attendance and fees may, in any one fiscal year, exempt up to 100
12 FTES from that state from the mandatory fee requirement described
13 in subdivision (a) for nonresident students.

14 (j) The attendance of nonresident students who are exempted
15 pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (5),
16 or (6) of subdivision (a), from the mandatory fee requirement
17 described in subdivision (a) for nonresident students may be
18 reported as resident FTES for state apportionment purposes. Any
19 nonresident student reported as resident FTES for state
20 apportionment purposes pursuant to subdivision (h) or (i) shall
21 pay a per unit fee that is three times the amount of the fee
22 established for residents pursuant to Section 76300. That fee is to
23 be included in the FTES adjustments described in Section 76300
24 for purposes of computing apportionments.

25 SEC. 2. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.

30 SEC. 3. *This act is an urgency statute necessary for the*
31 *immediate preservation of the public peace, health, or safety within*
32 *the meaning of Article IV of the Constitution and shall go into*
33 *immediate effect. The facts constituting the necessity are:*

34 *In order for the nonresident tuition exemption authorized by this*
35 *act to be in effect for the 2015–16 academic year, it is necessary*
36 *that this act take effect immediately.*

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Rudy Salas, Chair

AB 1347 Chiu – As Amended April 21, 2015

SUBJECT: Public contracts: claims

SUMMARY: Establishes a claim resolution process for public works contracts when contractors and public entities are in dispute. Specifically, **this bill:**

- 1) Establishes that provisions of this bill supersede other code sections related to local and state contracting disputes.
- 2) Defines what constitutes a claim.
- 3) Requires a public agency to respond with a written statement to a claim within 30 days following receipt that identifies which parts of the claim are disputed and undisputed.
- 4) Creates an exception to the 30-day timeframe if a governing board does not meet during that time.
- 5) Requires payment of the undisputed portion within 30 days after the public entity's issuance of the written statement.
- 6) Deems the total amount in the claim due to the contractor if the public entity does not respond to the claim with a determination of disputed and undisputed amounts.
- 7) Requires the contractor and public entity to enter non-binding mediation within 10 days after the disputed portion of the claim has been identified in writing.
- 8) Subjects public entities to interest payments for late payments.
- 9) Allows contractors to file claims on behalf of subcontractors.

EXISTING LAW:

- 1) Sets a resolution process for disputes between contractors and state entities for public works contracts that relies primarily on arbitration.
- 2) Sets a separate resolution process for disputes between contractors and local entities for public works contracts for claims of \$375,000 or less.

FISCAL EFFECT: Unknown

COMMENTS: This bill creates a claim resolution process for public works contracts when contractors and public entities are in dispute. It applies to both state and local public entities and specifies that the new section added by this bill takes precedence over the current resolution of claims processes described in Public Contract Code sections 10240-10240.13 and 20100-20929.

This bill defines a claim as one or more of the following: a time extension, including without limitation, for relief from damages or penalties for delay; payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled; or payment of an amount that is disputed by the local agency.

The author explains that this bill is meant to ensure contractors are paid in a timely manner for work, which is not specified in the original contract, but becomes necessary to complete a public works project.

According to the author, this bill "addresses the indefinite delay of payment to California's public works contractors for extra work performed. There is a loophole in current prompt payment law when it comes to resolving disputes in the claims process." The author states that some contractors have to wait months or even years until they are paid.

This bill allows contractors to submit claims to public entities and requires an entity to respond within 30 days following receipt with a written statement identifying which parts of the claim are disputed and undisputed. This bill extends the 30-day timeframe if the public entity needs approval from its governing board and the board does not meet within the 30 days following receipt of the claim. In such a case, the response would instead be due three days after the next publicly noticed meeting of the governing body.

For amounts determined to be undisputed, this bill would require the public entity to pay the contractor within 30 days after the public entity's issuance of the written statement. If the entity does not reply within 30 days or the extended time provided due to governing body meeting dates, the entire claim is deemed approved. Payments would be due to the contractor 30 days after the expiration of the time period.

For disputed portions of a claim, this bill requires the contractor and public entity to enter non-binding mediation within 10 days after the disputed portion of the claim has been identified in writing. If both sides cannot agree on a mediator, they are each required to choose a mediator and those mediators decide on a neutral third party to mediate the disputed portion of the claim. If an agreement cannot be reached in mediation, other procedures already set forth in existing law would apply.

This bill specifies that amounts not paid in a timely manner would accrue interest at the rate specified by a section in the Code of Civil Procedure. This section sets the interest rate at 10% per year.

In addition to allowing contractors to submit claims, this bill lets contractors submit claims on behalf of a subcontractor. Within 45 days of receiving the claim from a subcontractor, the contractor must notify the subcontractor in writing as to whether or not the contractor presented the claim to the public entity. If the claim was not presented, the contractor must provide the subcontractor with a statement explaining why the claim was not submitted.

Opposition to this bill, which primarily includes organizations that represent local governments and special districts as well as individual counties and special districts, have expressed several concerns about this bill.

Specifically, the opponents state that this bill is redundant because there are already claims resolution processes in place under current law; the timelines are not feasible for public entities as some claims are complex and might not include enough supporting documents from the contractor; the 10% interest rate for late payments is inappropriate; and deeming the claim approved for missing a response deadline puts public agencies and therefore taxpayers at financial risk.

An opposition letter from a coalition that includes the California State Association of Counties (CSAC) and 16 others, says "Overall, we are very concerned with the new claims resolution process envisioned by AB 1347 as it will only add time and squander taxpayer funding by usurping a process which works well a significant majority of the time."

In response to identified concerns, the author recently took amendments, which are incorporated in this analysis. However, no groups that registered opposition contacted the committee to remove their opposition.

PRIOR LEGISLATION: AB 2471 (Frazier) of 2014 would have required a public entity to pay a contractor for a change order for extra work that occurred in a public works project within 60 days of the completion of the work. AB 2471 was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

United Contractors (co-sponsor)
California Chapters of the National Electrical Contractors Association (co-sponsor)
California State Council of Laborers (co-sponsor)
California-Nevada Conference of Operating Engineers (co-sponsor)
State Building and Construction Trades Council of California (co-sponsor)
Air Conditioning Sheet Metal Association (prior version)
Air-conditioning & Refrigeration Contractors Association (prior version)
Associated General Contractors, California Chapters (prior version)
American Subcontractors Association, California
California Association of Sheet Metal and Air Conditioning Contractors (prior version)
California Landscape & Irrigation Council (prior version)
California Legislative Conference of the Plumbing, Heating and Piping Industry (prior version)
California State Association of Electrical Workers (prior version)
California State Pipe Trades Council (prior version)
California Plumbing and Mechanical Contractors Association (prior version)
Finishing Contractors Association of Southern California (prior version)
Union Roofing Contractors Association (prior version)
Western Line Constructors (prior version)
Western States Council of Sheet Metal Workers (prior version)

Opposition

Alameda County Board of Supervisors
Alpine County Board of Supervisors (prior version)

Association of California Healthcare Districts
Association of California School Administrators
California Airports Council (prior version)
California Association of Sanitation Agencies
California Association of School Business Officials
California Special Districts Association
California State University
Coalition for Adequate School Housing
Community College Facility Coalition
Contra Costa County Board of Supervisors (prior version)
County of San Bernardino (prior version)
County of Tulare (prior version)
County School Facilities Consortium
CSAC
Desert Water Agency
El Dorado Irrigation District
Kern County Board of Supervisors (prior version)
League of California Cities
Los Angeles County Board of Supervisors (prior version)
Mendocino County (prior version)
Modoc County Board of Supervisors (prior version)
Municipal Water District of Orange County
Rural County Representatives of California
Sacramento County Board of Supervisors (prior version)
Three Valleys MWD
Urban Counties Caucus
Ventura County Board of Supervisors
Yuba County Board of Supervisors (prior version)

Analysis Prepared by: Scott Herbstman / A. & A.R. / (916) 319-3600

Solano County 2015 Bill List

Friday, May 01, 2015

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
AB 13 Chávez R Public postsecondary education: community colleges: exemptions from nonresident tuition.	3/25/2015-A. APPR. SUSPENSE FILE 3/25/2015-In committee: Set, first hearing. Referred to suspense file. Agenda	Current law generally requires community college districts to charge a tuition fee to nonresident students, but exempts specified community college students from paying that nonresident tuition fee. This bill would additionally exempt nonresident students living in California and enrolled at a community college who are covered individuals, as defined in a specified federal statute, using, or are intending to use, Federal GI Bill education benefits, as specified, to cover the costs associated with enrollment as a community college student. This bill contains other related provisions and other existing laws. Last Amended on 3/4/2015			
AB 45 Mullin D Household hazardous waste.	4/30/2015-A. APPR. 4/30/2015-Read second time and amended. Heard	Would require each jurisdiction that provides for the residential collection and disposal of solid waste to increase the collection and diversion of household hazardous waste in its service area, on or before July 1, 2020, by 15% over a baseline amount, to be determined in accordance with Department of Resources Recycling and Recovery regulations. The bill would authorize the department to adopt a model ordinance for a comprehensive program for the collection of household hazardous waste to facilitate compliance with those provisions, and would require each jurisdiction to annually report to the department on progress achieved in complying with those provisions. Last Amended on 4/30/2015	Watch	Oppose	Watch
AB 50 Mullin D Nurse-Family Partnership.	4/22/2015-A. APPR. 4/22/2015-Re-referred to Com. on APPR. Heard	Would require the State Department of Public Health to additionally develop a grant application and award grants to counties for other evidence-based home visiting programs, and would require the department, in consultation with stakeholders and the State Department of Health Care Services, to develop and implement a plan on or before January 1, 2017, to ensure that Nurse-Family Partnership and other evidence-based nurse home visiting programs are offered and provided to Medi-Cal eligible pregnant women. This bill contains other existing laws. Last Amended on 4/21/2015	Support	Support in Concept	
AB 171 Irwin D Department of Veterans Affairs: veterans' services.	3/25/2015-A. APPR. SUSPENSE FILE 3/25/2015-In committee: Set, first hearing. Referred to suspense file. Heard	Would continuously appropriate the sum of \$5,600,000 from the General Fund to the Department of Veterans Affairs to be available for allocation to counties to fund the activities of county veterans service officers, as specified. The bill would require the department, no later than July 1, 2016, to develop an allocation formula based upon performance standards that encourage innovation and reward outstanding service by county veterans service officers, and would require those continuously appropriated moneys to be allocated in accordance with that formula, as specified. Last Amended on 3/17/2015	Support	Support	

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
AB 216 Garcia, Cristina D Product sales to minors: vapor products.	4/30/2015-A. THIRD READING 4/30/2015-Read second time. Ordered to third reading. Agenda 5/4/2015 #77 ASSEMBLY ASSEMBLY THIRD READING FILE	Would prohibit the sale of any device intended to deliver a nonnicotine product in a vapor state, to be directly inhaled by the user, to a person under 18 years of age. The bill would exempt from its prohibition the sale of a drug or medical device that has been approved by the federal Food and Drug Administration. Because this bill would create a new crime or infraction, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws. Last Amended on 4/13/2015		Neutral	Watch
AB 1300 Ridley-Thomas D Mental health: involuntary commitment.	4/30/2015-A. APPR. 4/30/2015-Read second time and amended. Agenda	Would authorize counties to designate one or more persons to act as a local or regional liaison to assist a person who is a patient in an emergency department of a defined nondesignated hospital and who has been detained, or who may require detention, for evaluation and treatment, as specified. The bill would reorganize and make changes to the provisions relating to the detention for evaluation and treatment of a person who may be subject to the above provisions, including specifying procedures for delivery of those individuals to various facilities. Last Amended on 4/30/2015		Oppose	
AB 1347 Chiu D Public contracts: claims.	4/29/2015-A. APPR. 4/29/2015-Do pass and be re-referred to the Committee on Appropriations. Agenda	Would establish, for contracts entered into on or after January 1, 2016, a claim resolution process applicable to all public entity contracts. The bill would define a claim as a separate demand by the contractor for one or more of: a time extension for relief from damages or penalties for delay, payment of money or damages arising from work done pursuant to the contract for a public work, or payment of an amount disputed by the local agency, as specified. This bill contains other related provisions and other existing laws. Last Amended on 4/21/2015			
SB 12 Beall D Foster youth.	4/22/2015-S. APPR. 4/22/2015-Read second time and amended. Re-referred to Com. on APPR. Agenda, Heard 5/11/2015 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, L ARA, Chair	Would revise the definition of a nonminor dependent and former nonminor dependent to include a person who has not attained 21 years of age, if he or she was subject to an order for foster care placement at any time after reaching 14 years of age, was adjudged a ward of the court on the basis of criminal activity, and if the last custody order of the court did not order his or her return to the physical custody of his or her parent or legal guardian, and would also include a person who has not attained 21 years of age, if he or she was adjudged a ward of the court on the basis of criminal activity, was subject to an order for foster care placement at the time the petition to adjudge him or her a ward of the court was filed, and was in secure confinement when he or she attained 18 years of age. Last Amended on 4/22/2015		Concern s	

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
SB 23 Mitchell D CalWORKs: eligibility.	4/13/2015-S. APPR. SUSPENSE FILE 4/13/2015-April 13 hearing: Placed on APPR. suspense file. Heard	<i>Under current law, for purposes of determining a family's maximum aid payment under the CalWORKs program, the number of needy persons in the same family is not increased for any child born into a family that has received aid under the CalWORKs program continuously for the 10 months prior to the birth of the child, with specified exceptions. This bill would repeal that exclusion for purposes of determining the family's maximum aid payment and would expressly prohibit the denial of aid, or the denial of an increase in the maximum aid payment, if a child, on whose behalf aid or an increase in aid is being requested, was born into an applicant's or recipient's family while the applicant's or recipient's family was receiving aid under the CalWORKs program.</i>	Support	Pending	
SB 24 Hill D Electronic cigarettes: licensing and restrictions.	4/21/2015-S. APPR. 4/24/2015-Set for hearing May 4. Heard 5/4/2015 11 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, L ARA, Chair	<i>Would extend the applicability of the STAKE Act's provisions to persons under 21 years of age. The bill would extend the requirements of the STAKE Act to the sale of electronic cigarettes to persons under 21 years of age. The bill would require the State Department of Public Health to enforce the STAKE Act's provisions with regard to sales of electronic cigarettes commencing July 1, 2016. Last Amended on 4/21/2015</i>	Oppose	Pending	Watch
SB 111 Fuller R School facilities: military installations.	4/27/2015-S. APPR. SUSPENSE FILE 4/27/2015-April 27 hearing: Placed on APPR. suspense file. Heard	<i>Would appropriate \$61,000,000 from the General Fund to the State Department of Education for the 2015-16 fiscal year for apportionment to school districts to meet the matching share requirement of a school construction grant made by the Office of Economic Adjustment of the federal Department of Defense to construct, renovate, repair, or expand elementary and secondary public schools located on military installations. Last Amended on 3/4/2015</i>	Support		
SB 140 Leno D Electronic cigarettes.	4/27/2015-S. APPR. SUSPENSE FILE 4/27/2015-April 27 hearing: Placed on APPR. suspense file. Heard	<i>Would define the term "smoking" for purposes of the STAKE Act. The bill would also change the STAKE Act's definition of tobacco products to include electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquids, and make furnishing such a tobacco product to a minor a misdemeanor. This bill contains other related provisions and other existing laws. Last Amended on 4/13/2015</i>	Support	Pending	Watch
SB 151 Hernandez D Tobacco products: minimum legal age.	4/27/2015-S. APPR. SUSPENSE FILE 4/27/2015-April 27 hearing: Placed on APPR. suspense file. Heard	<i>The Stop Tobacco Access to Kids Enforcement (STAKE) Act, establishes various requirements for distributors and retailers relating to tobacco sales to minors. Current law requires the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 18 years of age. This bill would extend the applicability of those provisions to persons under 21 years of age. The bill would authorize the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 21 years of age.</i>	Support	Watch	Watch
BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
SB 277 Pan D	4/28/2015-S. APPR. 4/28/2015-Do pass as amended, and re-refer to the Committee on	<i>Would eliminate the exemption from immunization based upon personal beliefs. This bill would except pupils in a home-based private school and students enrolled in an independent study pursuant to specified law from the prohibition</i>	Support	Support	

Public health: vaccinations.	Appropriations. Heard	described above. The bill would narrow the authorization for temporary exclusion to make it applicable only to a child whose documentary proof of immunization status does not show proof of immunization against one of the diseases described above. The bill would make conforming changes to related provisions. This bill contains other related provisions and other existing laws. Last Amended on 4/22/2015			
SB 591 Pan D Cigarette and tobacco products taxes: California Tobacco Tax Act of 2015.	4/30/2015-S. APPR. 4/30/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (April 29). Re-referred to Com. on APPR. Heard 5/11/2015 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, L ARA, Chair	Beginning January 1, 2016, would impose an additional tax on the distribution of cigarettes at the rate of \$0.10 for each cigarette distributed, which would be \$2.00 per pack; would require a dealer and a wholesaler to file a return with the State Board of Equalization showing the number of cigarettes in its possession or under its control on that date, and impose a related floor stock tax; and would require a licensed cigarette distributor to file a return with the board and pay a cigarette indicia adjustment tax at the rate equal to the difference between the existing tax rate and the tax rate imposed by this bill for cigarette tax stamps in its possession or under its control on that date. Because the bill would impose an additional tax on cigarettes under the Cigarette and Tobacco Products Tax Law, it would increase the tax upon the distribution of tobacco products under that law. This bill contains other related provisions and other existing laws. Last Amended on 4/16/2015	Watch	Watch	Watch

Total Measures: 15

Total Tracking Forms: 15