

SECTION 1. It is the intent of the Legislature to enact legislation to replace derogatory terms, including, but not limited to, “insane” and “mentally defective,” “*mental disorder*” and “*mental defect*” with more culturally sensitive terms when referring to individuals with mental illness.

SEC. 2. Section 4005 of the Harbors and Navigation Code is amended to read:

4005. If the owner of the land is a nonresident of the county the sheriff may make service by leaving a copy of the notice of application with the occupant, or agent of the owner. If there is no occupant, or agent of the owner, the sheriff may place a copy in the post office addressed to the owner ~~thirty~~ 30 days prior to the day set for the hearing. If the owner is a minor, ~~insane, mentally incapacitated,~~ *has a mental health disorder, lacks mental capacity,* or is a decedent, notice shall be served on ~~his~~ *the owner's* guardian, administrator, or other legal representative.

SEC. 3. Section 1026 of the Penal Code is amended to read:

1026. (a) If a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only the other plea or pleas had been entered, and in that trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been

committed. If the jury finds the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In that trial, the jury shall return a verdict either that the defendant was sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding is that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding is that the defendant was insane at the time the offense was committed, the court, unless it appears to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be committed to the State Department of State Hospitals for the care and treatment of ~~the mentally disordered~~ *persons with mental health disorders* or any other appropriate public or private treatment facility approved by the community program director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2.

(b) Prior to making the order directing that the defendant be committed to the State Department of State Hospitals or other treatment facility or placed on outpatient status, the court shall order the community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be

placed on outpatient status or committed to the State Department of State Hospitals or other treatment facility. A person shall not be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee. If, however, it appears to the court that the sanity of the defendant has been recovered fully, the defendant shall be remanded to the custody of the sheriff until the issue of sanity has been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court that committed the person, after notice and hearing, finds and determines that the person's sanity has been restored, or meets the criteria for release pursuant to Section 4146 of the Welfare and Institutions Code. This section does not prohibit the transfer of the patient from one state hospital to any other state hospital by proper authority. This section does not prohibit the transfer of the patient to a hospital in another state in the manner provided in Section 4119 of the Welfare and Institutions Code.

(c) If the defendant is committed or transferred to the State Department of State Hospitals pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the community program director that the defendant be transferred to a public or private treatment

facility approved by the community program director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, order the defendant transferred to the State Department of State Hospitals or to another public or private treatment facility approved by the community program director. If either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing, which shall be held if the court determines that sufficient grounds exist. At that hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same procedures and standards of proof as used in conducting probation revocation hearings pursuant to Section 1203.2.

(d) Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the community program director or a designee.

(e) ~~When~~*If* the court, after considering the placement recommendation of the community program director required in subdivision (b), orders that the defendant be committed to the State Department of State Hospitals or other public or private treatment facility, the court shall provide copies of the following documents prior

to the admission of the defendant to the State Department of State Hospitals or other treatment facility where the defendant is to be committed:

(1) The commitment order, including a specification of the charges.

(2) A computation or statement setting forth the maximum term of commitment in accordance with Section 1026.5.

(3) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.

(4) State summary criminal history information.

(5) Any arrest reports prepared by the police department or other law enforcement agency.

(6) Any court-ordered psychiatric examination or evaluation reports.

(7) The community program director's placement recommendation report.

(8) Any medical records.

(f) If the defendant is confined in a state hospital or other treatment facility as an inpatient, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the community program director of the county of commitment, or a designee, setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the prosecutor and defense counsel.

(g) For purposes of this section and Sections 1026.1 to 1026.6, inclusive, "community program director" means the person, agency, or entity designated by

the State Department of State Hospitals pursuant to Section 1605 of this code and Section 4360 of the Welfare and Institutions Code.

SEC. 4. Section 1367 of the Penal Code is amended to read:

1367. (a) A person ~~cannot~~ *shall not* be tried or adjudged to punishment or have ~~his or her~~ *their* probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent. A defendant is mentally incompetent for purposes of this chapter if, as a result of a mental *health* disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner.

(b) Section 1370 ~~shall apply~~ *applies* to a person who is charged with a felony or alleged to have violated the terms of probation for a felony or mandatory supervision and is incompetent as a result of a mental *health* disorder. Section 1370.01 ~~shall apply~~ *applies* to a person who is charged with a misdemeanor or misdemeanors only, or a violation of formal or informal probation for a misdemeanor, and the judge finds reason to believe that the defendant ~~is mentally disordered,~~ *has a mental health disorder,* and may, as a result of the mental *health* disorder, be incompetent to stand trial. Section 1370.1 ~~shall apply~~ *applies* to a person who is incompetent as a result of a developmental disability and ~~shall apply~~ *applies* to a person who is incompetent as a result of a mental *health* disorder, but

is also ~~developmentally disabled~~. *has a developmental disability*. Section 1370.02 shall ~~apply~~ *applies* to a person alleged to have violated the terms of ~~his or her~~ *the person's* postrelease community supervision or parole.

SEC. 5. Section 2625 of the Penal Code is amended to read:

2625. (a) For the purposes of this section only, the term “prisoner” includes any individual in custody in a state prison, the California Rehabilitation Center, or a county jail, or who is a ward of the Department of the Youth Authority or who, upon a verdict or finding that the individual was insane at the time of committing an offense, or mentally incompetent to be tried or adjudged to punishment, is confined in a state hospital for the care and treatment of ~~the mentally disordered~~ *persons with mental health disorders* or in any other public or private treatment facility.

(b) In ~~any~~ *a* proceeding brought under Part 4 (commencing with Section 7800) of Division 12 of the Family Code, and Section 366.26 of the Welfare and Institutions Code, ~~where if~~ *if* the proceeding seeks to terminate the parental rights of ~~any a~~ *a* prisoner, or ~~any a~~ *a* proceeding brought under Section 300 of the Welfare and Institutions Code, ~~where if~~ *if* the proceeding seeks to adjudicate the child of a prisoner a dependent child of the court, the superior court of the county in which the proceeding is pending, or a judge thereof, shall order notice of any court proceeding regarding the proceeding transmitted to the prisoner.

(c) Service of notice shall be made pursuant to Section 7881 or 7882 of the Family Code or Section 290.2, 291, or 294 of the Welfare and Institutions Code, as appropriate.

(d) Upon receipt by the court of a statement from the prisoner or ~~his or her~~ *the prisoner's* attorney indicating the prisoner's desire to be present during the court's proceedings, the court shall issue an order for the temporary removal of the prisoner from the institution, and for the prisoner's production before the court. ~~No proceeding may~~ *A proceeding may not* be held under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 366.26 of the Welfare and Institutions Code and ~~no~~ a petition to adjudge the child of a prisoner a dependent child of the court pursuant to subdivision (a), (b), (c), (d), (e), (f), (i), or (j) of Section 300 of the Welfare and Institutions Code may *not* be adjudicated without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner or an affidavit signed by the warden, superintendent, or other person in charge of the institution, or ~~his or her~~ a designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding.

(e) In any other action or proceeding in which a prisoner's parental or marital rights are subject to adjudication, an order for the prisoner's temporary removal from the institution and for the prisoner's production before the court may be made

by the superior court of the county in which the action or proceeding is pending, or by a judge thereof. A copy of the order shall be transmitted to the warden, superintendent, or other person in charge of the institution not less than 15 days before the order is to be executed. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, to keep the prisoner safely, and when the prisoner's presence is no longer required, to return the prisoner to the institution from which ~~he or she~~ *the prisoner* was taken. The expense of executing the order shall be a proper charge against, and shall be paid by, the county in which the order shall be made.

The order shall be to the following effect:

County of ____ (as the case may be).

The people of the State of California to the warden of ____:

An order having been made this day by me, that (name of prisoner) be produced in this court as a party in the case of ____, you are commanded to deliver (name of prisoner) into the custody of ____ for the purpose of (recite purposes).

Dated this ____ day of ____, 20__.

(f) When a prisoner is removed from the institution pursuant to this section, the prisoner shall remain in the constructive custody of the warden, superintendent, or other person in charge of the institution.

(g) A prisoner who is a parent of a child involved in a dependency hearing described in this section and who has either waived ~~his or her~~ *the* right to physical presence at the hearing pursuant to subdivision (d) or who has not been ordered before the court may, at the court's discretion, in order to facilitate the parent's participation, be given the opportunity to participate in the hearing by videoconference, if that technology is available, and if that participation otherwise complies with the law. If videoconferencing technology is not available, teleconferencing may be utilized to facilitate parental participation. Because of the significance of dependency court hearings for parental rights and children's long-term care, physical attendance by the parent at the hearings is preferred to participation by videoconference or teleconference. This subdivision ~~shall not be construed to~~ *does not* limit a prisoner's right to physically attend a dependency hearing as provided in this section. This section does not authorize the use of videoconference or teleconference to replace in-person family visits with prisoners.

(h) It is the intent of the Legislature to maintain internal job placement opportunities and preserve earned privileges for prisoners, and prevent the removal of prisoners subject to this section from court-ordered courses as a result of their participation in the proceedings described in this section.

(i) Notwithstanding any other law, a court may not order the removal and production of a prisoner sentenced to death, whether or not that sentence is being

appealed, in any action or proceeding in which the prisoner's parental rights are subject to adjudication.

SEC. 6. Section 2960 of the Penal Code is amended to read:

2960. (a) The Legislature finds that there are prisoners who have a treatable, severe mental *health* disorder that was one of the causes of, or was an aggravating factor in the commission of the crime for which they were incarcerated. Secondly, the Legislature finds that if the severe mental *health* disorders of those prisoners are not in remission or cannot be kept in remission at the time of their parole or upon termination of parole, there is a danger to society, and the state has a compelling interest in protecting the public. Thirdly, the Legislature finds that in order to protect the public from those persons it is necessary to provide mental health treatment until the severe mental *health* disorder ~~which~~ *that* was one of the causes of or was an aggravating factor in the person's prior criminal behavior is in remission and can be kept in remission. ~~The~~

(b) *The* Legislature further finds and declares the Department of Corrections should evaluate each prisoner for severe mental *health* disorders during the first year of the prisoner's sentence, and that ~~severely mentally disordered~~ prisoners *with severe mental health disorders* should be provided with an appropriate level of mental health treatment while in prison and when returned to the community.

SEC. 7. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be provided necessary treatment by the State Department of State Hospitals as follows:

(a) (1) The prisoner has a severe mental *health* disorder that is not in remission or that cannot be kept in remission without treatment.

(2) The term “severe mental *health* disorder” means an illness or disease or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term “severe mental *health* disorder,” as used in this section, does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances.

(3) The term “remission” means a finding that the overt signs and symptoms of the severe mental *health* disorder are controlled either by psychotropic medication or psychosocial support. A person “cannot be kept in remission without treatment” if during the year prior to the question being before the Board of Parole Hearings or a trial court, ~~he or she~~ *the person* has been in remission and ~~he or she~~ has been physically violent, except in self-defense, or ~~he or she~~ has made a serious threat of substantial physical harm upon the person of another so as to cause the target of

the threat to reasonably fear for ~~his or her~~ *their* safety or the safety of ~~his or her~~ *their* immediate family, or ~~he or she~~ *the person* has intentionally caused property damage, or ~~he or she~~ has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard ~~shall be~~ *is* whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental *health* disorder was one of the causes of, or was an aggravating factor in, the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental *health* disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) (1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of State Hospitals have evaluated the prisoner at a facility of the Department of Corrections and Rehabilitation, and a chief psychiatrist of the Department of Corrections and Rehabilitation has certified to the Board of Parole Hearings that the prisoner has a severe mental *health* disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental *health* disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior, that the prisoner has been in treatment for the severe mental *health* disorder for 90 days or more within the year prior to ~~his or her~~ *the prisoner's* parole release day, and

that by reason of ~~his or her~~ *the prisoner's* severe mental *health* disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of State Hospitals pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections and Rehabilitation, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections and Rehabilitation.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental *health* disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental *health* disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Parole Hearings pursuant to this paragraph, then the Board of Parole Hearings shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) If at least one of the independent professionals who evaluate the prisoner pursuant to paragraph (2) concurs with the chief psychiatrist's certification of the issues described in paragraph (2), this subdivision shall be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated ~~as a mentally~~

~~disordered offender.~~ *an offender with a mental health disorder.* It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) meets both of the following criteria:

(1) The defendant received a determinate sentence pursuant to Section 1170 for the crime.

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

(D) ~~Any~~ A robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(E) Carjacking, as defined in subdivision (a) of Section 215, if it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the carjacking.

(F) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(G) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(H) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(I) Lewd acts on a child under 14 years of age in violation of Section 288.

(J) Continuous sexual abuse in violation of Section 288.5.

(K) The offense described in subdivision (a) of Section 289 ~~where~~ *if* the act was accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(L) Arson in violation of subdivision (a) of Section 451, or arson in violation of any other provision of Section 451 or in violation of Section 455 ~~where~~ *if* the act posed a substantial danger of physical harm to others.

(M) ~~Any~~ *A* felony in which the defendant used a firearm which use was charged and proved as provided in Section 12022.5, 12022.53, or 12022.55.

(N) A violation of Section 18745.

(O) Attempted murder.

(P) A crime not enumerated in subparagraphs (A) to (O), inclusive, in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243.

(Q) A crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in ~~such~~ a manner that a reasonable person would believe and expect that the force or violence would be used. For purposes of this subparagraph, substantial physical harm ~~shall~~ *does* not require proof that the threatened act was likely to cause great or serious bodily injury.

(f) For purposes of meeting the criteria set forth in this section, the existence or nature of the crime, as defined in paragraph (2) of subdivision (e), for which the prisoner has been convicted may be shown with documentary evidence. The details underlying the commission of the offense that led to the conviction, including the use of force or violence, causing serious bodily injury, or the threat to use force or violence likely to produce substantial physical harm, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of State Hospitals.

(g) As used in this chapter, “substantial danger of physical harm” does not require proof of a recent overt act.

SEC. 8. Section 2966 of the Penal Code is amended to read:

2966. (a) A prisoner may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing if so requested, for the purpose of proving that the prisoner meets the criteria in Section 2962. At the hearing, the burden of proof shall be on the person or agency who certified the prisoner under subdivision (d) of Section 2962. If the prisoner or any person appearing ~~on his or her~~ *the prisoner's* behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in Section 2978. The prisoner shall be informed at the hearing of ~~his or her~~ *the* right to request a trial pursuant to subdivision (b). The

Board of Prison Terms shall provide a prisoner who requests a trial, a petition form and instructions for filing the petition.

(b) A prisoner who disagrees with the determination of the Board of Prison Terms that ~~he or she~~ *the prisoner* meets the criteria of Section 2962, may file in the superior court of the county in which ~~he or she~~ *the prisoner* is incarcerated or is being treated a petition for a hearing on whether ~~he or she~~, *the prisoner*, as of the date of the Board of Prison Terms hearing, met the criteria of Section 2962. The court shall conduct a hearing on the petition within 60 calendar days after the petition is filed, unless either time is waived by the petitioner or ~~his or her~~ *the petitioner's* counsel, or good cause is shown. Evidence offered for the purpose of proving the prisoner's behavior or mental status subsequent to the Board of Prison Terms hearing shall not be considered. The order of the Board of Prison Terms shall be in effect until the completion of the court proceedings. The court shall advise the petitioner of ~~his or her~~ *the* right to be represented by an attorney and of the right to a jury trial. The attorney for the petitioner shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil ~~hearing;~~ ~~however, in~~ *hearing. In* order to reduce costs, the rules of criminal discovery, as well as civil discovery, shall be applicable. The standard of proof shall be beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The court may, upon stipulation of both parties, receive in evidence the

affidavit or declaration of any psychiatrist, psychologist, or other professional person who was involved in the certification and hearing process, or any professional person involved in the evaluation or treatment of the petitioner during the certification process. The court may allow the affidavit or declaration to be read and the contents thereof considered in the rendering of a decision or verdict in any proceeding held pursuant to ~~subdivision (b)~~ *this subdivision*, or *subdivision (c)*, or subdivision (a) of Section 2972. If the court or jury reverses the determination of the Board of Prison Terms, the court shall stay the execution of the decision for five working days to allow for an orderly release of the prisoner.

(c) If the Board of Prison Terms continues a parolee's mental health treatment under Section 2962 when it continues the parolee's parole under Section 3001, the procedures of this section shall only be applicable for the purpose of determining if the parolee has a severe mental *health* disorder, whether the parolee's severe mental *health* disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of ~~his or her~~ *the parolee's* severe mental *health* disorder, the parolee represents a substantial danger of physical harm to others.

SEC. 9. Section 2968 of the Penal Code is amended to read:

2968. If the prisoner's severe mental *health* disorder is put into remission during the parole period, and can be kept in remission, the Director of State

Hospitals shall notify the Board of Parole Hearings and the State Department of State Hospitals shall discontinue treating the parolee.

SEC. 10. Section 2970 of the Penal Code is amended to read:

2970. (a) Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the parolee's or prisoner's severe mental *health* disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital that is treating the parolee, or the community program director in charge of the parolee's outpatient program, or the Secretary of the Department of Corrections and Rehabilitation, shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital, the district attorney of the county of commitment to prison, ~~his or her~~ a written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits.

(b) The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall be accompanied by affidavits specifying that treatment, while the prisoner was released from prison on parole, has been continuously provided by the State Department of State Hospitals either in a state hospital or in an outpatient program. The petition shall

also specify that the prisoner has a severe mental *health* disorder, that the severe mental *health* disorder is not in remission or cannot be kept in remission if the person's treatment is not continued, and that, by reason of ~~his or her~~ *the person's* severe mental *health* disorder, the prisoner represents a substantial danger of physical harm to others.

SEC. 11. Section 2972 of the Penal Code is amended to read:

2972. (a) (1) The court shall conduct a hearing on the petition under Section 2970 for continued treatment. The court shall advise the person of ~~his or her~~ *the* right to be represented by an attorney and of the right to a jury trial. The attorney for the person shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing, however, in order to reduce costs the rules of criminal discovery, as well as civil discovery, shall be applicable.

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(2) *The* standard of proof under this section shall be proof beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless the time is waived by the person or unless good cause is shown.

(b) The people shall be represented by the district attorney. If the person is indigent, the county public defender shall be appointed.

(c) If the court or jury finds that the patient has a severe mental *health* disorder, that the patient's severe mental *health* disorder is not in remission or cannot be kept in remission without treatment, and that by reason of ~~his or her~~ *the patient's severe mental health disorder*, the patient represents a substantial danger of physical harm to others, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which ~~he or she~~ *the patient* was being treated at the time the petition was filed, or committed to the State Department of State Hospitals if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in Section 2970. Time spent on outpatient status, except when placed in a locked facility at the direction of the outpatient supervisor, shall not count as actual custody and shall not be credited toward the person's maximum term of commitment or toward the person's term of extended commitment.

(d) A person shall be released on outpatient status if the committing court finds that there is reasonable cause to believe that the committed person can be safely and effectively treated on an outpatient basis. Except as provided in this subdivision, the provisions of Title 15 (commencing with Section 1600) of Part 2,

shall 2 apply to persons placed on outpatient status pursuant to this paragraph. The standard for revocation under Section 1609 ~~shall be~~ *is* that the person cannot be safely and effectively treated on an outpatient basis.

(e) Prior to the termination of a commitment under this section, a petition for recommitment may be filed to determine whether the patient's severe mental *health* disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of ~~his or her~~ *the patient's* severe mental *health* disorder, the patient represents a substantial danger of physical harm to others. The recommitment proceeding shall be conducted in accordance with the provisions of this section.

(f) ~~Any~~ *A* commitment under this article places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental *health* disorder.

(g) Except as provided in this subdivision, the person committed shall be considered to be an involuntary mental health patient and ~~he or she~~ shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health, or its successor, the State Department of State Hospitals, may adopt regulations to modify those rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is being held. This subdivision and the regulations adopted

pursuant thereto shall become operative on January 1, 1987, except that regulations may be adopted prior to that date.

SEC. 12. Section 2974 of the Penal Code is amended to read:

2974. Before releasing any inmate or terminating supervision of any parolee who is a danger to self or others, or gravely disabled as a result of a mental *health* disorder, and who does not come within the provisions of Section 2962, the Director of Corrections may, upon probable cause, place, or cause to be placed, the person in a state hospital pursuant to the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

SEC. 13. Section 2978 of the Penal Code is amended to read:

2978. (a) Any independent professionals appointed by the Board of Parole Hearings for purposes of this article shall not be state government ~~employees;~~ *employees. The independent professionals appointed shall have at least five years of experience in the diagnosis and treatment of mental ~~disorders;~~ health disorders* and shall include psychiatrists, and licensed psychologists who have a doctoral degree in psychology.

(b) On July 1 of each year the Department of Corrections and Rehabilitation and the State Department of State Hospitals shall submit to the Board of Parole

Hearings a list of 20 or more independent professionals on which both departments concur. The professionals shall not be state government employees and shall have at least five years of experience in the diagnosis and treatment of mental *health* disorders and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. For purposes of this article, ~~when~~ *once* the Board of Parole Hearings receives the list, it shall only appoint independent professionals from the list. The list ~~shall~~ *is* not be binding on the Board of Parole Hearings until it has received the list, and ~~shall~~ *is* not be binding after June 30 following receipt of the list.

SEC. 14. Section 4011.6 of the Penal Code is amended to read:

4011.6. ~~In any case in which~~ *(a) If* it appears to the person in charge of a county jail, city jail, or juvenile detention facility, or to any judge of a court in the county in which the jail or juvenile detention facility is located, that a person in custody in that jail or juvenile detention facility may ~~be mentally disordered, he or she~~ *have a mental health disorder*, that person or judge may cause the prisoner to be taken to a facility for 72-hour treatment and evaluation pursuant to Section 5150 of the Welfare and Institutions Code and ~~he or she~~ shall inform the facility in writing, which shall be confidential, of the reasons that the person is being taken to the facility. The local mental health director or ~~his or her~~ *the director's* designee may examine the prisoner prior to transfer to a facility for treatment and evaluation.

Upon transfer to a facility, Article 1 (commencing with Section 5150), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260), Article 5 (commencing with Section 5275), Article 6 (commencing with Section 5300), and Article 7 (commencing with Section 5325) of Chapter 2 and Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code shall apply to the prisoner.

~~Where~~

(b) If the court causes the prisoner to be transferred to a 72-hour facility, the court shall ~~forthwith~~ immediately notify the local mental health director or ~~his or her~~ the director's designee, the prosecuting attorney, and counsel for the prisoner in the criminal or juvenile proceedings about that transfer. Where the person in charge of the jail or juvenile detention facility causes the transfer of the prisoner to a 72-hour facility the person shall immediately notify the local mental health director or ~~his or her~~ the director's designee and each court within the county where the prisoner has a pending proceeding about the transfer. Upon notification by the person in charge of the jail or juvenile detention facility the court shall ~~forthwith~~ immediately notify counsel for the prisoner and the prosecuting attorney in the criminal or juvenile proceedings about that transfer.

If

(c) If a prisoner is detained in, or remanded to, a facility pursuant to ~~these the~~ the articles of the Welfare and Institutions ~~Code~~, Code listed in subdivision (a), the

facility shall transmit a report, which shall be confidential, to the person in charge of the jail or juvenile detention facility or judge of the court who caused the prisoner to be taken to the facility and to the local mental health director or ~~his or her~~ *the director's* designee, concerning the condition of the prisoner. A new report shall be transmitted at the end of each period of confinement provided for in those articles, upon conversion to voluntary status, and upon filing of temporary letters of conservatorship.

A

(d) A prisoner who has been transferred to an inpatient facility pursuant to this section may convert to voluntary inpatient status without obtaining the consent of the court, the person in charge of the jail or juvenile detention ~~facility,~~ *facility,* or the local mental health director. At the beginning of that conversion to voluntary status, the person in charge of the facility shall transmit a report to the person in charge of the jail or juvenile detention facility or judge of the court who caused the prisoner to be taken to the facility, counsel for the prisoner, prosecuting attorney, and local mental health director or ~~his or her~~ *the director's* designee.

H

(e) ~~If~~ *If* the prisoner is detained in, or remanded to, a facility pursuant to ~~those~~ *the* articles of the Welfare and Institutions ~~Code,~~ *Code listed in subdivision (a),* the time passed in the facility shall count as part of the prisoner's sentence. When the prisoner is detained in, or remanded to, the facility, the person in charge of the jail

or juvenile detention facility shall advise the professional person in charge of the facility of the expiration date of the prisoner's sentence. If the prisoner is to be released from the facility before the expiration date, the professional person in charge shall notify the local mental health director or ~~his or her~~ *the director's* designee, counsel for the prisoner, the prosecuting attorney, and the person in charge of the jail or juvenile detention facility, who shall send for, take, and receive the prisoner back into the jail or juvenile detention facility.

A

(f) A defendant, either charged with or convicted of a criminal offense, or a minor alleged to be within the jurisdiction of the juvenile court, may be concurrently subject to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

H

(g) If a prisoner is detained in a facility pursuant to ~~those~~ *the* articles of the Welfare and Institutions Code *listed in subdivision (a)*, and if the person in charge of the facility determines that arraignment or trial would be detrimental to the well-being of the prisoner, the time spent in the facility shall not be computed in any statutory time requirements for arraignment or trial in any pending criminal or juvenile proceedings. ~~Otherwise, this~~ *This* section shall not affect any statutory time requirements for arraignment or trial in any pending criminal or juvenile proceedings.

For

(h) For purposes of this section, the term “juvenile detention facility” includes any state, county, or private home or institution in which wards or dependent children of the juvenile court or persons awaiting a hearing before the juvenile court are detained.

SEC. 15. Section 4497 of the Penal Code is amended to read:

4497. (a) The Legislature finds and declares that approval by the electors of the County Correctional Facilities Capital Expenditure and Youth Facility Bond Act of 1988 has made new funds available for the construction and renovation of county jails and county juvenile facilities. The Legislature hereby directs the Board of Corrections to allocate and administer the moneys intended in the County Correctional Facilities Capital Expenditure and Youth Facility Bond Act of 1988 for county jails, and the Department of the Youth Authority to allocate and administer the moneys intended in the County Correctional Facilities Capital Expenditure and Youth Facility Bond Act of 1988 for juvenile facilities, in accordance with the provisions of this title.

(b) Money appropriated for allocation under this title may be used for the renovation, replacement, reconstruction, or construction of county jail facilities, county medical facilities designated to house persons charged with or convicted of a crime and who are ~~mentally ill~~, *experiencing mental illness*, and county juvenile

facilities. Money appropriated by this title may also be used for construction of separate local detention facility space for detoxification of persons arrested because of intoxication.

(c) It is the Legislature's intention to make the money appropriated for allocation under this title available to counties with established and documented needs for capital projects for jail and juvenile facilities. However, that money shall not be used to build facilities that the counties cannot afford to operate fully and safely.

SEC. 16. Section 4497.10 of the Penal Code is amended to read:

4497.10. To be eligible for funding consideration, a county shall, to the satisfaction of the board, do all of the following:

(a) Certify that juveniles are not housed in the county's adult detention facilities, except where authorized by ~~law~~; *law*, and document the existence of, or plans for, separate housing for juveniles.

(b) Document the existence of, or plans for, separate housing for persons detained or arrested because of intoxication, which will prevent mixing of this category of prisoner with other prisoners. If the county has no existing provisions for detoxification housing, it shall make provisions for that housing as part of its proposed project.

(c) Document the existence of, or plans for, separate housing for ~~mentally disordered defendants or convicted prisoners~~ *defendants or convicted prisoners with mental health disorders* which will prevent mixing of this category of prisoner with other prisoners until the time that the responsible health authority or ~~his or her~~ *the health authority's* designee clears specific prisoners for nonseparate housing, based on clinical judgment. If the county has no existing provisions for separate housing of ~~mentally disordered prisoners,~~ *prisoners with mental health disorders,* it shall make provisions for that housing as part of its proposed project.

(d) (1) Submit a formal project proposal to the board on or before September 30, 1990. The project proposal shall describe the construction or renovation project to be undertaken and shall include an estimated budget for the project. The proposal shall also identify how county funding obligations, both for construction and operation of the facility, will be met. The project proposal shall be consistent with the needs and priorities identified in the needs assessment by the county.

Failure

(2) *Failure* to submit a project proposal shall be deemed a declaration by the county that it does not intend to request its allocation under subdivisions (a) and (b) of Section 4497.04, and the amounts allocated in those subdivisions to the county shall be available for reallocation by the board. The board may waive this requirement for submission of a proposal within one year if it determines there are unavoidable delays in the county's preparation of a project proposal.

(e) Submit architectural drawings which shall be approved by the board for compliance with minimum jail standards and by the State Fire Marshal for compliance with fire safety requirements. If the board concludes that a county's proposed construction or renovation contains serious design deficiencies that, while they would not require a refusal to enter into the contract, would seriously impair the facility's functioning, it shall notify the sheriff and the board of supervisors of that county of the deficiencies and shall delay entering into a contract with the county for at least 30 days after mailing the letter. This letter shall be a public record.

(f) The county shall certify that it owns, or has long-term possession of, the construction site.

(g) The county shall have filed a final notice of determination on its environmental impact report with the board.

(h) The county has formally adopted a plan to finance the construction of the proposed facility.

(i) The county shall have submitted a preliminary staffing plan for the proposed facility, along with an analysis of other operating costs anticipated for the facility, to the board for review and comment. Prior to submission of the staffing plan and operating costs analysis of the board, the county board of supervisors shall have reviewed and approved the submittal in or following public hearings. The sheriff shall also have reviewed and commented on the preliminary staffing plan and the

operating cost analysis. The board shall comment in writing to the sheriff and board of supervisors. This letter shall be a public record.

(j) (1) The county shall submit either a major or minor needs assessment documenting the need for and purpose of the proposed project. The needs assessment shall meet all requirements listed in the applicable County Correctional Facility Capital Expenditure Fund regulations. The board may exempt a county from performing a new needs assessment if any of the following conditions exist:

(+)

(A) The board determines that a prior needs assessment is in substantial compliance and it justifies the project being funded in Section 4497.04.

(-)

(B) A county receives funds from this bond act in an amount of three hundred thousand dollars (\$300,000) or less.

¶

(2) If exempted from performing a needs assessment, counties shall provide an analysis of specific jail deficiencies, including levels of security, program, including, but not limited to, medical and mental health care, housing, and administration. This analysis shall also include specific plans for correcting the deficiencies.

(k) (1) Demonstrate to the board unless the county's sole project is a remodel of an existing adult detention facility which will not result in the addition of any

beds, that it is using, to the greatest extent feasible, alternatives to incarceration based on the following measures: ~~an~~

(A) *An* incarceration rate of no more than one standard deviation above the mean for all ~~counties and, either~~ counties.

(B) *Either* a pretrial misdemeanor incarceration rate of no more than one standard deviation above the mean for all counties or a sentenced prisoner alternatives percentage of 5 percent or more as related to total sentenced prisoner admissions.

(1)

(2) (A) The data to be used in establishing the incarceration rate will be the 1989 calendar year average daily population as reported by each county to the board and the Department of Finance Report on Population by County.

(2)

(B) The pretrial misdemeanor incarceration rate will be based on an average of the daily pretrial misdemeanor jail population, developed from a four-day sample period in 1989 specified by the board.

(3)

(C) The sentenced prisoner alternatives percentage will be based on enrollment in three programs: Section 4024.2 of the Penal Code (work-in-lieu of jail), county parole, and home detention if the placement is made after some jail time is served.

(4)

(D) Counties failing to demonstrate adequate use of alternatives to incarcerations by the above measure by March 30, 1990, shall be reevaluated annually by the board. If any county is unable to satisfy the requirements of this section by September 30, 1993, the amount allocated to the county shall revert to the state, to be reallocated by the board pursuant to subdivision (c) of Section 4497.04.

(I) Begin construction or renovation work within four years of the effective date of this title. If a county fails to meet this requirement, any allocations to the county under this chapter shall be deemed void and moneys allocated to the county shall revert to the board for reallocation. The board may waive this requirement if it determines that there are unavoidable delays in the initial construction activities.

(m) Counties shall provide for the construction of appropriate courtroom facilities and hearing room facilities within any jail construction plan submitted to the board. Those courtroom facilities and hearing room facilities shall be utilized for purposes of holding appropriate arraignments and bail hearings and for the conduct of parole revocation hearings. The board may waive this requirement where county specific circumstances dictate.

SEC. 17. Section 6102 of the Penal Code is amended to read:

6102. The primary purpose of the medical facility shall be the receiving, segregation, confinement, treatment and care of males under the custody of the Department of Corrections or any agency thereof who are any of the following:

~~(a) Mentally disordered.~~

~~(b) Developmentally disabled.~~

(a) Persons with mental health disorders.

(b) Persons with developmental disabilities.

~~(c) Addicted~~ *Persons who are addicted* to the use of controlled substances.

~~(d) Suffering~~ *Persons who are suffering* from any other chronic disease or condition.

SEC. 18. Section 6100.5 of the Probate Code is amended to read:

6100.5. (a) An individual is not mentally competent to make a will if at the time of making the will either of the following is true:

(1) The individual does not have sufficient mental capacity to be able to ~~(A) understand~~ *do any of the following:*

(A) Understand the nature of the testamentary ~~act,~~ ~~(B) understand~~ *act.*

(B) Understand and recollect the nature and situation of the individual's ~~property,~~ ~~or (C) remember~~ *property.*

(C) Remember and understand the individual's relations to living descendants, spouse, and parents, and those whose interests are affected by the will.

(2) The individual suffers from a mental *health* disorder with symptoms including delusions or hallucinations, which delusions or hallucinations result in the individual's devising property in a way ~~which,~~ *that*, except for the existence of the delusions or hallucinations, the individual would not have done.

(b) ~~Nothing in this section supersedes~~ *This section does not supersede* existing law relating to the admissibility of evidence to prove the existence of mental incompetence or mental *health* disorders.

(c) Notwithstanding subdivision (a), a conservator may make a will on behalf of a conservatee if the conservator has been ~~se~~ authorized *to do so* by a court order pursuant to Section 2580.

SEC. 19. Section 253 of the Revenue and Taxation Code is amended to read:

253. If, because of active military service of the United States in time of war, sickness or other cause found to be unavoidable in the judgment of the assessor, an applicant for the veterans' exemption is unable to attend in person before the assessor, and ~~no~~ a deputy is *not* available to go to the place where ~~he~~ *the applicant* is located, then the applicant may make and subscribe the affidavit before any person authorized to administer an oath. If, during time of war, the applicant is in active military service of the United States or of any nation with which the United States is allied, or is outside of the continental limits of the United States, or if the person entitled to the exemption ~~is insane or mentally incompetent,~~ *has a mental*

health disorder or lacks mental capacity, a member of ~~his~~ *the applicant's* immediate ~~family, his guardian,~~ *family or the applicant's guardian* or legal representative, having personal knowledge of the facts required to be set forth, may appear before the assessor and may make and subscribe the affidavit on ~~his~~ *the applicant's* behalf.

SEC. 20. Section 4242 of the Welfare and Institutions Code is amended to read:

4242. As used in this chapter, the following definitions apply:

(a) "Family" means persons whose children, spouses, siblings, parents, grandparents, or grandchildren have a serious mental *health* disorder.

(b) "Serious mental *health* disorder" means a mental *health* disorder that is severe in degree and persistent in duration and that may cause behavioral disorder or impair functioning so as to interfere substantially with activities of daily living. Serious mental *health* disorders include schizophrenia, major affective disorders, and other severely disabling mental *health* disorders.

SEC. 21. Section 5213 of the Welfare and Institutions Code is amended to read:

5213. (a) If, upon evaluation, the person is found to be in need of treatment because ~~he or she~~ *the person* is, as a result of a mental *health* disorder, a danger to *self or others, or to himself or herself*, or is gravely disabled, ~~he or she~~ *the person* may be detained for treatment in a facility for 72-hour treatment and evaluation.

Saturdays, Sundays, and holidays may be excluded from the 72-hour period if the State Department of Social Services certifies for each facility that evaluation and treatment services ~~cannot~~ *may not* reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility ~~can~~ *may* reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

(b) Persons who have been detained for evaluation and treatment, who are receiving medications as a result of their mental illness, shall be given, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication, by a person designated by the mental health facility where the person is detained. The State Department of Social Services shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

- (1) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.
- (2) The likelihood of improving or not improving without the medications.
- (3) Reasonable alternative treatments available.

(4) The name and type, frequency, amount, and method of dispensing the medications, and the probable length of time that the medications will be taken.

The

(c) *The* fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication ~~shall~~ *does* not constitute new grounds for release.

SEC. 22. Section 5300 of the Welfare and Institutions Code is amended to read:

5300. (a) At the expiration of the 14-day period of intensive treatment, a person may be confined for further treatment pursuant to the provisions of this article for an additional period, not to exceed 180 days if one of the following exists:

(a)

(1) The person has attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of *a mental disorder or mental defect, health disorder*, presents a demonstrated danger of inflicting substantial physical harm upon others.

(b)

(2) The person had attempted, or inflicted physical harm upon the person of another, that act having resulted in ~~his or her~~ *the person* being taken into custody and who presents, as a result of ~~a mental disorder or mental defect,~~ *health disorder,* a demonstrated danger of inflicting substantial physical harm upon others.

~~(e)~~

(3) The person had made a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in ~~his or her~~ *the person* being taken into custody, and the person presents, as a result of ~~a mental disorder or mental defect,~~ *health disorder,* a demonstrated danger of inflicting substantial physical harm upon others.

~~Any~~

(b) A commitment to a licensed health facility under this article places an affirmative obligation on the facility to provide treatment for the underlying causes of the person's mental *health* disorder.

~~Amenability~~

(c) *Amenability* to treatment is not required for a finding that ~~any~~ a person is a person as described in ~~(a), (b), or (e).~~ *paragraph (1), (2), or (3) of subdivision (a).*

Treatment programs need only be made available to these persons. Treatment does not mean that the treatment be successful or potentially successful, and it does not mean that the person must recognize ~~his or her~~ *the person's* problem and willingly participate in the treatment program.