

AMENDED IN SENATE APRIL 22, 2024  
AMENDED IN SENATE MARCH 21, 2024

**SENATE BILL**

**No. 1184**

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**Introduced by Senator Eggman**

February 14, 2024

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An act to amend ~~Section~~ *Sections 5325.2, 5332, 5334, and 5336* of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, as amended, Eggman. Mental health: involuntary treatment: antipsychotic medication.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment of persons who are a danger to themselves or others, or who are gravely disabled, due to a mental disorder or chronic alcoholism or drug abuse for 72 hours for evaluation and treatment, as specified. If certain conditions are met after the 72-hour detention, the act authorizes the certification of the person for a 14-day maximum period of intensive treatment and then another 14-day or 30-day maximum period of intensive treatment after the initial 14-day period of intensive treatment. Existing law, during the 30-day period of intensive treatment, as specified, also authorizes up to an additional 30 days of intensive treatment if certain conditions are met. Existing law authorizes the administration of antipsychotic medication to a person who is detained for evaluation and treatment for any of those detention periods, *except for the second 30-day period*, and establishes a process for hearings to determine the person's capacity to refuse the treatment. Existing law requires a determination of a person's incapacity to refuse treatment with antipsychotic medication to remain in effect only for the

duration of the 72-hour period or initial 14-day intensive treatment period, or both, until capacity is restored, or by court determination.

This bill would *authorize the administration of antipsychotic medication to a person who is detained for the second 30-day period. The bill would* additionally require the determination of a person's incapacity to refuse treatment with antipsychotic medication to remain in effect for the duration of the additional 14-day period or the additional 30-day period after the 14-day intensive treatment period, or the additional period of up to 30 days if certain conditions are met during the first 30-day ~~period~~ *period*, and would authorize a person who was found to lack capacity at a capacity hearing to file a petition to request a redetermination hearing on the question of incapacity at the commencement of any of those detention periods, as specified.

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

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

1     *SECTION 1. Section 5325.2 of the Welfare and Institutions*  
2     *Code is amended to read:*

3     5325.2. Any person who is subject to detention pursuant to  
4     Section 5150, 5250, 5260, ~~or 5270.15~~ 5270.15, or 5270.70 shall  
5     have the right to refuse treatment with antipsychotic medication  
6     subject to provisions set forth in this chapter.

7     *SEC. 2. Section 5332 of the Welfare and Institutions Code is*  
8     *amended to read:*

9     5332. (a) Antipsychotic medication, as defined in subdivision  
10    (l) of Section 5008, may be administered to any person subject to  
11    detention pursuant to Section 5150, 5250, 5260, ~~or 5270.15~~, or  
12    5270.70, if that person does not refuse that medication following  
13    disclosure of the right to refuse medication as well as information  
14    required to be given to persons pursuant to subdivision ~~(e)~~ (e) of  
15    Section 5152 and subdivision (b) of Section 5213.

16    (b) If any person subject to detention pursuant to Section 5150,  
17    5250, 5260, ~~or 5270.15~~, or 5270.70, and for whom antipsychotic  
18    medication has been prescribed, orally refuses or gives other  
19    indication of refusal of treatment with that medication, the  
20    medication shall be administered only when treatment staff have  
21    considered and determined that treatment alternatives to  
22    involuntary medication are unlikely to meet the needs of the

1 patient, and upon a determination of that person's incapacity to  
2 refuse the treatment, in a hearing held for that purpose.

3 (c) Each hospital in conjunction with the hospital medical staff  
4 or any other treatment facility in conjunction with its clinical staff  
5 shall develop internal procedures for facilitating the filing of  
6 petitions for capacity hearings and other activities required pursuant  
7 to this chapter.

8 (d) When ~~any~~ a person is subject to detention pursuant to Section  
9 5150, 5250, 5260, ~~or~~ 5270.15, *or 5270.70*, the agency or facility  
10 providing the treatment shall acquire the person's medication  
11 history, if possible.

12 (e) In the case of an emergency, as defined in subdivision (m)  
13 of Section 5008, a person detained pursuant to Section 5150, 5250,  
14 5260, ~~or 5270.15~~ *5270.15, or 5270.70* may be treated with  
15 antipsychotic medication over ~~his or her~~ *the person's* objection  
16 prior to a capacity hearing, but only with antipsychotic medication  
17 that is required to treat the emergency condition, which shall be  
18 provided in the manner least restrictive to the personal liberty of  
19 the patient. It is not necessary for harm to take place or become  
20 unavoidable prior to intervention.

21 *SEC. 3. Section 5334 of the Welfare and Institutions Code is*  
22 *amended to read:*

23 5334. (a) Capacity hearings required by Section 5332 shall be  
24 heard within 24 hours of the filing of the petition whenever  
25 possible. However, if any party needs additional time to prepare  
26 for the hearing, the hearing shall be postponed for 24 hours. In  
27 case of hardship, hearings may also be postponed for an additional  
28 24 hours, pursuant to local policy developed by the county mental  
29 health director and the presiding judge of the superior court  
30 regarding the scheduling of hearings. The policy developed  
31 pursuant to this subdivision shall specify procedures for the prompt  
32 filing and processing of petitions to ensure that the deadlines set  
33 forth in this section are met, and shall take into consideration the  
34 availability of advocates and the treatment needs of the patient. In  
35 no event shall hearings be held beyond 72 hours of the filing of  
36 the petition. The person who is the subject of the petition and ~~his~~  
37 ~~or her~~ *the person's* advocate or counsel shall receive a copy of the  
38 petition at the time it is filed.

39 (b) Capacity hearings shall be held in an appropriate location  
40 at the facility where the person is receiving treatment, and shall

1 be held in a manner compatible with, and the least disruptive of,  
2 the treatment being provided to the person.

3 (c) Capacity hearings shall be conducted by a superior court  
4 judge, a court-appointed commissioner or referee, or a  
5 court-appointed hearing officer. All commissioners, referees, and  
6 hearing officers shall be appointed by the superior court from a  
7 list of attorneys unanimously approved by a panel composed of  
8 the local mental health director, the county public defender, and  
9 the county counsel or district attorney designated by the county  
10 board of supervisors. No employee of the county mental health  
11 program or of any facility designated by the county and approved  
12 by the department as a facility for 72-hour treatment and evaluation  
13 may serve as a hearing officer. All hearing officers shall receive  
14 training in the issues specific to capacity hearings.

15 (d) The person who is the subject of the capacity hearing shall  
16 be given oral notification of the determination at the conclusion  
17 of the capacity hearing. As soon thereafter as is practicable, the  
18 person, ~~his or her~~ *the person's* counsel or advocate, and the director  
19 of the facility where the person is receiving treatment shall be  
20 provided with written notification of the capacity determination,  
21 which shall include a statement of the evidence relied upon and  
22 the reasons for the determination. A copy of the determination  
23 shall be submitted to the superior court.

24 (e) (1) The person who is the subject of the capacity hearing  
25 may appeal the determination to the superior court or the court of  
26 appeal.

27 (2) The person who ~~has~~ filed the original petition for a capacity  
28 hearing may request the district attorney or county counsel in the  
29 county ~~in which~~ *where* the person is receiving treatment to appeal  
30 the determination to the superior court or the court of appeal, on  
31 behalf of the state.

32 (3) Nothing shall prohibit treatment from being initiated pending  
33 appeal of a determination of incapacity pursuant to this section.

34 (4) Nothing in this section shall be construed to preclude the  
35 right of a person to bring a writ of habeas corpus pursuant to  
36 Section 5275, subject to the provisions of this chapter.

37 (f) All appeals to the superior court pursuant to this section shall  
38 be subject to de novo review.

39 (g) (1) *A person who was found to lack capacity at a capacity*  
40 *hearing may file a petition to request a redetermination hearing*

1 *on the question of capacity at the commencement of any detention*  
2 *period described in Section 5260, 5270.15, or 5270.70.*

3 *(2) The facility where a person described in paragraph (1) is*  
4 *receiving treatment shall inform the person, and their advocate,*  
5 *of the person's right to request a redetermination on the question*  
6 *of incapacity at the commencement of any detention period*  
7 *described in Section 5260, 5270.15, or 5270.70.*

8 *(3) Capacity redetermination hearings shall be conducted in*  
9 *the same manner as capacity hearings pursuant to this section.*

10 *(4) Capacity redetermination hearings held pursuant to this*  
11 *subdivision may raise new information and evidence that was not*  
12 *raised in the original capacity hearing or any other capacity*  
13 *redetermination hearing.*

14 *(5) The question of capacity shall be reviewed de novo and*  
15 *under the same burden of proof applied in the initial capacity*  
16 *hearing.*

17 *(6) The person who is the subject of the capacity redetermination*  
18 *hearing may appeal the determination to the superior court or the*  
19 *court of appeal.*

20 *(7) Nothing shall prohibit treatment from continuing pending*  
21 *a determination of incapacity pursuant to this subdivision.*

22 **SECTION 4.**

23 *SEC. 4.* Section 5336 of the Welfare and Institutions Code is  
24 amended to read:

25 5336. A determination of a person's incapacity to refuse  
26 treatment with antipsychotic medication made pursuant to Section  
27 5334 shall remain in effect only for the duration of the detention  
28 period described in Section 5150, 5250, 5260, 5270.15, or 5270.70  
29 until capacity has been restored according to standards developed  
30 pursuant to subdivision (c) of Section 5332, or by court  
31 determination, whichever is sooner.