

ASSEMBLY BILL

No. 416

Introduced by Assembly Member Krell

February 5, 2025

An act to amend Sections 5008, 5113, and 5150 of the Welfare and Institutions Code, relating to behavioral health.

LEGISLATIVE COUNSEL'S DIGEST

AB 416, as introduced, Krell. Involuntary commitment.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary commitment and treatment of persons with specified mental disorders. Under the act, when a person, as a result of a mental health disorder, is a danger to self or others, or gravely disabled, the person may, upon probable cause, be taken into custody by specified individuals, including, among others, by a peace officer and a designated member of a mobile crisis team, and placed in a facility designated by the county and approved by the State Department of Health Care Services for up to 72 hours for evaluation and treatment. Existing law exempts specified individuals, including a peace officer responsible for the detainment of a person under these provisions from criminal and civil liability for an action by a person who is released at or before the end of the period for which they were detained.

This bill would additionally authorize a person to be taken into custody, pursuant to those provisions, by an emergency physician, as defined. The bill would also exempt an emergency physician who is responsible for the detainment of a person under those provisions from criminal and civil liability, 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 5008 of the Welfare and Institutions Code
2 is amended to read:

3 5008. Unless the context otherwise requires, the following
4 definitions shall govern the construction of this part:

5 (a) “Evaluation” consists of multidisciplinary professional
6 analyses of a person’s medical, psychological, educational, social,
7 financial, and legal conditions as may appear to constitute a
8 problem. Persons providing evaluation services shall be properly
9 qualified professionals and may be full-time employees of an
10 agency providing face-to-face, which includes telehealth,
11 evaluation services or may be part-time employees or may be
12 employed on a contractual basis.

13 (b) “Court-ordered evaluation” means an evaluation ordered by
14 a superior court pursuant to Article 2 (commencing with Section
15 5200) of Chapter 2 or by a superior court pursuant to Article 3
16 (commencing with Section 5225) of Chapter 2.

17 (c) “Intensive treatment” consists of such hospital and other
18 services as may be indicated. Intensive treatment shall be provided
19 by properly qualified professionals and carried out in facilities
20 qualifying for reimbursement under the California Medical
21 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
22 with Section 14000) of Part 3 of Division 9, or under Title XVIII
23 of the federal Social Security Act and regulations thereunder.
24 Intensive treatment may be provided in hospitals of the United
25 States government by properly qualified professionals. This part
26 does not prohibit an intensive treatment facility from also providing
27 72-hour evaluation and treatment.

28 (d) “Referral” is referral of persons by each agency or facility
29 providing assessment, evaluation, crisis intervention, or treatment
30 services to other agencies or individuals. The purpose of referral
31 shall be to provide for continuity of care, and may include, but
32 need not be limited to, informing the person of available services,
33 making appointments on the person’s behalf, discussing the
34 person’s problem with the agency or individual to which the person
35 has been referred, appraising the outcome of referrals, and
36 arranging for personal escort and transportation when necessary.
37 Referral shall be considered complete when the agency or
38 individual to whom the person has been referred accepts

1 responsibility for providing the necessary services. All persons
2 shall be advised of available precare services that prevent initial
3 recourse to hospital treatment or aftercare services that support
4 adjustment to community living following hospital treatment.
5 These services may be provided through county or city mental
6 health departments, state hospitals under the jurisdiction of the
7 State Department of State Hospitals, regional centers under contract
8 with the State Department of Developmental Services, or other
9 public or private entities.

10 Each agency or facility providing evaluation services shall
11 maintain a current and comprehensive file of all community
12 services, both public and private. These files shall contain current
13 agreements with agencies or individuals accepting referrals, as
14 well as appraisals of the results of past referrals.

15 (e) "Crisis intervention" consists of an interview or series of
16 interviews within a brief period of time, conducted by qualified
17 professionals, and designed to alleviate personal or family
18 situations that present a serious and imminent threat to the health
19 or stability of the person or the family. The interview or interviews
20 may be conducted in the home of the person or family, or on an
21 inpatient or outpatient basis with such therapy, or other services,
22 as may be appropriate. The interview or interviews may include
23 family members, significant support persons, providers, or other
24 entities or individuals, as appropriate and as authorized by law.
25 Crisis intervention may, as appropriate, include suicide prevention,
26 psychiatric, welfare, psychological, legal, or other social services.

27 (f) "Prepetition screening" is a screening of all petitions for
28 court-ordered evaluation as provided in Article 2 (commencing
29 with Section 5200) of Chapter 2, consisting of a professional
30 review of all petitions; an interview with the petitioner and,
31 whenever possible, the person alleged, as a result of a mental health
32 disorder, to be a danger to others, or to themselves, or to be gravely
33 disabled, to assess the problem and explain the petition; when
34 indicated, efforts to persuade the person to receive, on a voluntary
35 basis, comprehensive evaluation, crisis intervention, referral, and
36 other services specified in this part.

37 (g) "Conservatorship investigation" means investigation by an
38 agency appointed or designated by the governing body of cases in
39 which conservatorship is recommended pursuant to Chapter 3
40 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), and Article 4 (commencing with Section 5250) of Chapter 2, and for purposes of Chapter 3 (commencing with Section 5350), “gravely disabled” means any of the following, as applicable:

(A) A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

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

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

(ii) There has been a finding of probable cause on a complaint pursuant to paragraph (2) of subdivision (a) of Section 1368.1 of the Penal Code, a preliminary examination pursuant to Section 859b of the Penal Code, or a grand jury indictment, and the complaint, indictment, or information has not been dismissed.

(iii) As a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against them and to assist counsel in the conduct of their defense in a rational manner.

(iv) The person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section ~~5250~~, 5250) of Chapter 2, and for purposes of Chapter 3 (commencing with Section 5350), “gravely disabled” includes a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

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

(4) A county, by adoption of a resolution of its governing body, may elect to defer implementation of the changes made to this

1 section by Senate Bill 43 of the 2023–24 Regular Session of the
2 Legislature until January 1, 2026.

3 (i) “Peace officer” means a duly sworn peace officer as that
4 term is defined in Chapter 4.5 (commencing with Section 830) of
5 Title 3 of Part 2 of the Penal Code who has completed the basic
6 training course established by the Commission on Peace Officer
7 Standards and Training, or any parole officer or probation officer
8 specified in Section 830.5 of the Penal Code when acting in relation
9 to cases for which the officer has a legally mandated responsibility.

10 (j) “Postcertification treatment” means an additional period of
11 treatment pursuant to Article 6 (commencing with Section 5300)
12 of Chapter 2.

13 (k) “Court,” unless otherwise specified, means a court of record.

14 (l) “Antipsychotic medication” means any medication
15 customarily prescribed for the treatment of symptoms of psychoses
16 and other severe mental and emotional disorders.

17 (m) “Emergency” means a situation in which action to impose
18 treatment over the person’s objection is immediately necessary
19 for the preservation of life or the prevention of serious bodily harm
20 to the patient or others, and it is impracticable to first gain consent.
21 It is not necessary for harm to take place or become unavoidable
22 prior to treatment.

23 (n) (1) “Designated facility,” “facility designated by the county
24 for evaluation and treatment,” or “facility designated by the county
25 to provide intensive treatment” means a facility that meets
26 designation requirements duly established by the State Department
27 of Health Care Services in accordance with Section 5404,
28 including, but not limited to, the following:

29 (A) Psychiatric health facilities licensed by the State Department
30 of Health Care Services.

31 (B) Psychiatric residential treatment facilities licensed by the
32 State Department of Health Care Services.

33 (C) Mental health rehabilitation centers licensed by the State
34 Department of Health Care Services.

35 (D) Provider sites certified by the State Department of Health
36 Care Services or a mental health plan to provide crisis stabilization.

37 (E) General acute care hospitals licensed by the State
38 Department of Public Health.

39 (F) Acute psychiatric hospitals licensed by the State Department
40 of Public Health.

1 (G) Chemical dependency recovery hospitals licensed by the
2 State Department of Public Health.

3 (H) Hospitals operated by the United States Department of
4 Veterans Affairs.

5 (2) (A) A county may designate a facility for the purpose of
6 providing one or more of the following services:

7 (i) Providing evaluation and treatment pursuant to Article 1
8 (commencing with Section 5150) of Chapter 2.

9 (ii) Providing intensive treatment pursuant to Article 4
10 (commencing with Section 5250) of Chapter 2.

11 (iii) Providing additional intensive treatment pursuant to Article
12 4.5 (commencing with Section 5260) of Chapter 2.

13 (iv) Providing additional intensive treatment pursuant to Article
14 4.7 (commencing with Section 5270.10) of Chapter 2.

15 (v) Providing postcertification treatment pursuant to Article 6
16 (commencing with Section 5300) of Chapter 2.

17 (B) A county may designate a facility, as is appropriate and
18 based on capability, for the purpose of providing one or more types
19 of treatment listed in subparagraph (A) of paragraph ~~(3)~~ of
20 ~~subdivision (n)~~ (2) without designating the facility to provide all
21 treatments.

22 (3) Notwithstanding Chapter 3.5 (commencing with Section
23 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
24 the State Department of Health Care Services may implement,
25 interpret, or make specific this subdivision, in whole or in part, by
26 means of plan or county letters, information notices, plan or
27 provider bulletins, or other similar instructions, until the time
28 regulations are adopted no later than December 31, 2027.

29 (o) “Severe substance use disorder” means a diagnosed
30 substance-related disorder that meets the diagnostic criteria of
31 “severe” as defined in the most current version of the Diagnostic
32 and Statistical Manual of Mental Disorders.

33 (p) “Personal safety” means the ability of one to survive safely
34 in the community without involuntary detention or treatment
35 pursuant to this part.

36 (q) “Necessary medical care” means care that a licensed health
37 care practitioner, while operating within the scope of their practice,
38 determines to be necessary to prevent serious deterioration of an
39 existing physical medical condition that, if left untreated, is likely
40 to result in serious bodily injury as defined in Section 15610.67.

1 (r) “Emergency physician” means a physician and surgeon
2 who satisfies all of the following criteria:

3 (1) Provides medical screening and treatment of patients in the
4 emergency department of a general acute care hospital licensed
5 under Chapter 2 (commencing with Section 1250) of Division 2
6 of the Health and Safety Code.

7 (2) Completed the county training described in paragraph (2)
8 of subdivision (a) of Section 5121.

9 (3) Completed the application and approval processes described
10 in paragraph (3) of subdivision (a) of Section 5121.

11 SEC. 2. Section 5113 of the Welfare and Institutions Code is
12 amended to read:

13 5113. Except as provided in Sections 5154, 5173, 5259.3, 5267,
14 and 5306, the facility providing treatment pursuant to Article 1
15 (commencing with Section 5150), Article 1.5 (commencing with
16 Section 5170), Article 4 (commencing with Section 5250), Article
17 4.5 (commencing with Section—5260) 5260), or Article 6
18 (commencing with Section—5300), 5300) of Chapter 2, the
19 superintendent of the facility, the professional person in charge of
20 the facility and ~~his or her~~ their designee, the emergency physician
21 responsible for the detainment of the person, or the peace officer
22 responsible for the detainment of the person shall not be civilly or
23 criminally liable for any action by a person released at or before
24 the end of the period for which ~~he or she~~ the person was admitted
25 pursuant to the provisions of the appropriate article.

26 SEC. 3. Section 5150 of the Welfare and Institutions Code is
27 amended to read:

28 5150. (a) ~~When~~ If a person, as a result of a mental health
29 disorder, is a danger to ~~others~~, others or to themselves, or is gravely
30 disabled, a peace officer, an emergency physician, professional
31 person in charge of a facility designated by the county for
32 evaluation and treatment, member of the attending staff, as defined
33 by regulation, of a facility designated by the county for evaluation
34 and treatment, designated members of a mobile crisis team, or
35 professional person designated by the county may, upon probable
36 cause, take, or cause to be taken, the person into custody for a
37 period of up to 72 hours for assessment, evaluation, and crisis
38 intervention, or placement for evaluation and treatment in a facility
39 designated by the county for evaluation and treatment and approved
40 by the State Department of Health Care Services. The 72-hour

1 period begins at the time when the person is first detained. At a
2 minimum, assessment, as defined in Section 5150.4, and
3 evaluation, as defined in subdivision (a) of Section 5008, shall be
4 conducted and provided on an ongoing basis. Crisis intervention,
5 as defined in subdivision (e) of Section 5008, may be provided
6 concurrently with assessment, evaluation, or any other service.

7 (b) When determining if a person should be taken into custody
8 pursuant to subdivision (a), the individual making that
9 determination shall apply the provisions of Section 5150.05, and
10 shall not be limited to consideration of the danger of imminent
11 harm.

12 (c) The professional person in charge of a facility designated
13 by the county for evaluation and treatment, member of the
14 attending staff, or professional person designated by the county
15 shall assess the person to determine whether the person can be
16 properly served without being detained. If, in the judgment of the
17 professional person in charge of the facility designated by the
18 county for evaluation and treatment, member of the attending staff,
19 or professional person designated by the county, the person can
20 be properly served without being detained, the person shall be
21 provided evaluation, crisis intervention, or other inpatient or
22 outpatient services on a voluntary basis. This subdivision does not
23 prevent a peace officer from delivering an individual to a
24 designated facility for assessment under this section. Furthermore,
25 the assessment requirement of this subdivision does not require a
26 peace officer to perform any additional duties other than those
27 specified in Sections 5150.1 and 5150.2.

28 (d) If a person is evaluated by a professional person in charge
29 of a facility designated by the county for evaluation or treatment,
30 member of the attending staff, or professional person designated
31 by the county and is found to be in need of mental health services,
32 but is not admitted to the facility, all available alternative services
33 provided pursuant to subdivision (c) shall be offered, as determined
34 by the county mental health director.

35 (e) If, in the judgment of the professional person in charge of
36 the facility designated by the county for evaluation and treatment,
37 member of the attending staff, or the professional person designated
38 by the county, the person cannot be properly served without being
39 detained, the admitting facility shall require an application in
40 writing stating the circumstances under which the person's

condition was called to the attention of the peace officer, *emergency physician*, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, and stating that the peace officer, *emergency physician*, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county has probable cause to believe that the person is, as a result of a mental health disorder, a danger to ~~others~~, *others* or to themselves, or *is* gravely disabled. The application shall also record whether the historical course of the person's mental disorder was considered in the ~~determination~~, *determination* pursuant to Section 5150.05. If the probable cause is based on the statement of a person other than the peace officer, *emergency physician*, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, the person shall be liable in a civil action for intentionally giving a statement that the person knows to be false. A copy of the application shall be treated as the original.

(f) (1) At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person's personal property, the person taking them into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person. The person taking them into custody shall then furnish to the court a report generally describing the person's property so preserved and safeguarded and its disposition, in substantially the form set forth in Section 5211, except that if a responsible relative or the guardian or conservator of the person is in possession of the person's property, the report shall include only the name of the relative or guardian or conservator and the location of the property, whereupon responsibility of the person taking them into custody for that property shall terminate. ~~As~~

(2) As used in this section, "responsible relative" includes the spouse, parent, adult child, domestic partner, grandparent, grandchild, or adult brother or sister of the person.

(g) (1) Each person, at the time the person is first taken into custody under this section, shall be provided, by the person who

1 takes them into custody, the following information orally in a
2 language or modality accessible to the person. If the person cannot
3 understand an oral advisement, the information shall be provided
4 in writing. The information shall be in substantially the following
5 form:

6
7 My name is _____ .
8 I am a _____ .
9 (peace officer/mental health professional)
10 with _____ .
11 (name of agency)

12 You are not under criminal arrest, but I am taking you for an examination by
13 mental health professionals at _____ .
14 _____
15 (name of facility)

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

17
18 (2) If taken into custody at the person's own residence, the
19 person shall also be provided the following information:

20
21 You may bring a few personal items with you, which I will have
22 to approve. Please inform me if you need assistance turning off
23 any appliance or water. You may make a phone call and leave a
24 note to tell your friends or family where you have been taken.

25
26 (h) The designated facility shall keep, for each patient evaluated,
27 a record of the advisement given pursuant to subdivision ~~(g)~~ (g),
28 which shall include all of the following:

- 29 (1) The name of the person detained for evaluation.
30 (2) The name and position of the peace officer or mental health
31 professional taking the person into custody.
32 (3) The date the advisement was completed.
33 (4) Whether the advisement was completed.
34 (5) The language or modality used to give the advisement.
35 (6) If the advisement was not completed, a statement of good
36 cause, as defined by regulations of the State Department of Health
37 Care Services.

38 (i) (1) Each person admitted to a facility designated by the
39 county for evaluation and treatment shall be given the following
40 information by admission staff of the facility. The information

1 shall be given orally and in writing and in a language or modality
2 accessible to the person. The written information shall be available
3 to the person in English and in the language that is the person's
4 primary means of communication. Accommodations for other
5 disabilities that may affect communication shall also be provided.
6 The information shall be in substantially the following form:

7
8 My name is _____.

9 My position here is _____.

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

13 ☐ Harm yourself.

14 ☐ Harm someone else.

15 ☐ Be unable to take care of your own food, clothing, and housing needs.

16 We believe this is true because

17 _____
18 (list of the facts upon which the allegation of dangerous
19 or gravely disabled due to mental health disorder is based, including pertinent
20 facts arising from the admission interview).

21 You will be held for a period up to 72 hours. During the 72 hours you may
22 also be transferred to another facility. You may request to be evaluated or
23 treated at a facility of your choice. You may request to be evaluated or treated
24 by a mental health professional of your choice. We cannot guarantee the facility
25 or mental health professional you choose will be available, but we will honor
26 your choice if we can.

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

34 If you have questions about your legal rights, you may contact the county
35 Patients' Rights Advocate at _____

36 (phone number for the county Patients' Rights

37 _____
38 Advocacy office)

39 Your 72-hour period began _____.

40 (date/time)

1 (2) If the notice is given in a county where weekends and
2 holidays are excluded from the 72-hour period, the person shall
3 be informed of this fact.

4 (j) For each person admitted for evaluation and treatment, the
5 facility shall keep with the person's medical record a record of the
6 advisement given pursuant to subdivision (i), which shall include
7 all of the following:

8 (1) The name of the person performing the advisement.

9 (2) The date of the advisement.

10 (3) Whether the advisement was completed.

11 (4) The language or modality used to communicate the
12 advisement.

13 (5) If the advisement was not completed, a statement of good
14 cause.

15 (k) A facility to which a person who is involuntarily detained
16 pursuant to this section is transported shall notify the county
17 patients' rights advocate, as defined in Section 5500, if a person
18 has not been released within 72 hours of the involuntary detention.