

WELFARE AND INSTITUTIONS CODE SECTION 5150-5155

(This is the actual text of the law)

5150. (a) When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. At a minimum, assessment, as defined in Section 5150.4, and evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis. Crisis intervention, as defined in subdivision (e) of Section 5008, may be provided concurrently with assessment, evaluation, or any other service.

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

(c) The professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county shall assess the person to determine whether he or she can be properly served without being detained. If, in the judgment of the 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 can be properly served without being detained, he or she shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis. Nothing in this subdivision shall be interpreted to prevent a peace officer from delivering individuals to a designated facility for assessment under this section.

Furthermore, the assessment requirement of this subdivision shall not be interpreted to require peace officers to perform any additional duties other than those specified in Sections 5150.1 and 5150.2.

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

(e) If, in the judgment of the professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or the professional person designated by the county, the person cannot be properly served without being detained, the admitting facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the peace officer, 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, 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, or to himself or herself, or gravely disabled. The application shall also record whether the historical course of the person's mental disorder was considered in the determination, pursuant to Section 5150.05. If the probable cause is based on the statement of a person other than the peace officer, 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 he or she knows to be false.

(f) 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 him or her 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 him or her 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 him or her into custody for that property shall terminate. 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 he or she is first taken into custody under this section, shall be provided, by the person who takes him or her into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing. The information shall be in substantially the following form:

My name is _____ .

I am a _____

(peace officer/mental health

_____ .

professional)

with _____ .

(name of agency)

You are not under criminal arrest, but I am taking you for an examination by mental health professionals at _____ .

(name of facility)

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

(2) If taken into custody at his or her own residence, the person

shall also be provided the following information:

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

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

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

(i) (1) Each person admitted to a facility designated by the county for evaluation and treatment shall be given the following information by admission staff of the facility. The information shall be given orally and in writing and in a language or modality accessible to the person. The written information shall be available to the person in English and in the language that is the person's primary means of communication. Accommodations for other disabilities that may affect communication shall also be provided. The information shall be in substantially the following form:

My name is _____.

My position here is _____.

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

- Harm yourself.
- Harm someone else.
- Be unable to take care of your own food,

clothing, and housing needs.

We believe this is true because

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

You will be held for a period up to 72 hours.

During the 72 hours you may also be transferred to another facility. You may request to be evaluated or treated at a facility of your choice. You may request to be evaluated or treated by a mental health professional of your choice. We cannot guarantee the facility or mental health professional you choose will be available, but we will honor your choice if we can. During these 72 hours you will be evaluated by the facility staff, and you may be given treatment, including medications. It is possible for you to be released before the end of the 72 hours. But if the staff decides that you need continued treatment you can be held for a longer period of time. If you are held longer than 72 hours, you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided to you free of charge.

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

(phone number for the county

_____.

Patients' Rights Advocacy office)

Your 72-hour period began _____.

(date/time)

(2) If the notice is given in a county where weekends and holidays are excluded from the 72-hour period, the patient shall be informed

of this fact.

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

- (1) The name of the person performing the advisement.
- (2) The date of the advisement.
- (3) Whether the advisement was completed.
- (4) The language or modality used to communicate the advisement.
- (5) If the advisement was not completed, a statement of good cause.

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

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

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

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

5150.1. No peace officer seeking to transport, or having transported, a person to a designated facility for assessment under Section 5150, shall be instructed by mental health personnel to take the person to, or keep the person at, a jail solely because of the unavailability of an acute bed, nor shall the peace officer be forbidden to transport the person directly to the designated facility. No mental health employee from any county, state, city, or any private agency providing Short-Doyle psychiatric emergency services shall interfere with a peace officer performing duties under Section 5150 by preventing the peace officer from entering a designated facility with the person to be assessed, nor shall any employee of such an agency require the peace officer to remove the person without assessment as a condition of allowing the peace officer to depart.

"Peace officer" for the purposes of this section also means a jailer seeking to transport or transporting a person in custody to a designated facility for assessment consistent with Section 4011.6 or 4011.8 of the Penal Code and Section 5150.

5150.2. In each county whenever a peace officer has transported a person to a designated facility for assessment under Section 5150, that officer shall be detained no longer than the time necessary to complete documentation of the factual basis of the detention under Section 5150 and a safe and orderly transfer of physical custody of the person. The documentation shall include detailed information regarding the factual circumstances and observations constituting probable cause for the peace officer to believe that the individual required psychiatric evaluation under the standards of Section 5105.

Each county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to persons not admitted for evaluation and treatment and who decline alternative mental health services and to relate to the safe and orderly transfer of physical custody of persons under Section 5150, including those who have a criminal detention pending.

5150.4. "Assessment" for the purposes of this article, means the determination of whether a person shall be evaluated and treated

pursuant to Section 5150.

5151. If the facility designated by the county for evaluation and treatment admits the person, it may detain him or her for evaluation and treatment for a period not to exceed 72 hours. Saturdays, Sundays, and holidays may be excluded from the period if the State Department of Health Care Services certifies for each facility that evaluation and treatment services cannot 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 reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

Prior to admitting a person to the facility for treatment and evaluation pursuant to Section 5150, the professional person in charge of the facility or his or her designee shall assess the individual in person to determine the appropriateness of the involuntary detention.

5152. (a) Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is placed under a 72-hour hold and there is a collaborative treatment relationship between the psychiatrist and psychologist, either the psychiatrist or psychologist may authorize the release of the person from the hold, but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who has been placed under a 72-hour hold, the hold shall be maintained unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the

psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment.

(b) Any person who has been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.

(c) A person designated by the mental health facility shall give to any person who has been detained at that facility for evaluation and treatment and who is receiving medication as a result of his or her mental illness, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication. The State Department of Health Care 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 medication.
- (3) Reasonable alternative treatments available.
- (4) The name and type, frequency, amount, and method of dispensing the medication, and the probable length of time the medication will be taken.

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 not constitute new grounds for release.

(d) The amendments to this section made by Assembly Bill 348 of the 2003-04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

5152.1. The professional person in charge of the facility providing 72-hour evaluation and treatment, or his or her designee, shall notify the county behavioral health director or the director's designee and the peace officer who makes the written application pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention if all of the following conditions apply:

(a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

(b) The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.

If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer, agency, or designee shall destroy that record two years after receipt of notification.

5152.2. Each law enforcement agency within a county shall arrange with the county behavioral health director a method for giving prompt notification to peace officers pursuant to Section 5152.1.

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

5154. (a) Notwithstanding Section 5113, if the provisions of Section 5152 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

(d) The amendments to this section made by Assembly Bill 348 of the 2003-04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

5155. Nothing in this part shall be construed as granting authority to local entities to issue licenses supplementary to existing state and local licensing laws.