

WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES [5000 - 5987]

(Division 5 repealed and added by Stats. 1967, Ch. 1667.)

PART 1. THE LANTERMAN-PETRIS-SHORT ACT [5000 - 5556]

(Heading of Part 1 amended by Stats. 1968, Ch. 1374.)

CHAPTER 2. Involuntary Treatment [5150 - 5349.1]

(Chapter 2 added by Stats. 1967, Ch. 1667.)

ARTICLE 1. Detention of Mentally Disordered Persons for Evaluation and Treatment [5150 - 5155]

(Heading of Article 1 amended by Stats. 1969, Ch. 1472.)

5150.

(a) When a person, as a result of a mental health disorder, is a danger to others, or to themselves, 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. The 72-hour period begins at the time when the person is first detained. 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 the person 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, the person shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis. This subdivision does not prevent a peace officer from delivering an individual to a designated facility for assessment under this section. Furthermore, the assessment requirement of this subdivision does not require a peace officer to perform any additional duties other than those specified in Sections 5150.1 and 5150.2.

(d) If 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 themselves, 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 the person knows to be false. A copy of the application shall be treated as the original.

(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 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 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 takes them 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 the person's 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):
<input type="checkbox"/> Harm yourself. <input type="checkbox"/> Harm someone else. <input type="checkbox"/> 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 person shall be informed of this fact.

(j) For each person admitted for evaluation and treatment, the facility shall keep with the person'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.

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

(Amended by Stats. 2022, Ch. 960, Sec. 1. (AB 2275) Effective January 1, 2023.)