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SB-1227 Involuntary commitment: intensive treatment. (2021-2022)

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Senate Bill No. 1227

CHAPTER 619

An act to amend Section 5270.55 of, and to add Section 5270.70 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 27, 2022. Filed with Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1227, Eggman. Involuntary commitment: intensive treatment.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of persons with specified mental disorders for the protection of the persons committed. Under the act, when a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled, the person may, upon probable cause, be taken into custody 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. Under existing law, if a person is detained for 72 hours under those provisions, and has received an evaluation, the person may be certified for not more than 14 days of intensive treatment, as specified. Existing law further authorizes a person to be certified for an additional period of not more than 30 days of intensive treatment if the person remains gravely disabled and is unwilling or unable to accept treatment voluntarily. Existing law requires the person to be released at the end of the 30 days, except under specified circumstances, including, but not limited to, when the patient is subject to a conservatorship petition filed pursuant to specified provisions. Existing law requires an evaluation to be made when a gravely disabled person may need to be detained beyond the initial 14-day period, as to whether the person is likely to qualify for appointment of a conservator, and, if so, requires that referral to be made, as specified.

This bill would authorize the professional person in charge of the facility providing intensive treatment to the person to file a petition in the superior court for the county in which the facility is located, seeking approval for up to an additional 30 days of intensive treatment. The bill would require the petition to be filed after 15 days of the first 30-day period, but at least 7 days before expiration of the 30 days. The bill would require reasonable attempts to be made by the facility to notify family members or any other person designated by the patient of the time and place of the judicial review, unless the patient requests that the information not be provided. The bill would require the facility treating the patient to advise the patient of the patient's right to request that the information not be provided. The bill would require the court to either deny the petition or order an evidentiary hearing to be held within 2 court days after the petition is filed. The bill would authorize the court to order the person to be held for up to an additional 30 days of intensive treatment if, at the evidentiary hearing, the court makes specified findings, based on the evidence presented, including a finding that the person, as a result of mental disorder or impairment by chronic alcoholism, is gravely disabled. The bill would require the person to be released no later than the expiration of the original 30-day period if the court does not make all of the required findings. The bill also would make conforming changes to the evaluation requirements for determining whether the patient is likely to qualify for appointment of a conservator.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5270.55 of the Welfare and Institutions Code is amended to read:

5270.55. (a) Whenever it is contemplated that a gravely disabled person may need to be detained beyond the end of the 14-day period of intensive treatment and prior to proceeding with an additional 30-day certification, the professional person in charge of the facility shall cause an evaluation to be made, based on the patient's current condition and past history, as to whether it appears that the person, even after up to 30 days of additional treatment, is likely to qualify for appointment of a conservator. If the appointment of a conservator appears likely, the conservatorship referral shall be made during the 14-day period of intensive treatment.

(b) If it appears that with up to 30 days additional treatment a person is likely to reconstitute sufficiently to obviate the need for appointment of a conservator, then the person may be certified for the additional 30 days.

(c) When a conservatorship referral has not been made during the 14-day period and it appears during the 30-day certification that the person is likely to require the appointment of a conservator, or when a conservatorship referral has not been made during the initial 30-day period and it appears during a second consecutive 30-day period of intensive treatment approved by a court pursuant to Section 5270.70 that the person is likely to require the appointment of a conservator, then the conservatorship referral shall be made to allow sufficient time for conservatorship investigation and other related procedures. If a temporary conservatorship is obtained, it shall run concurrently with and not consecutively to the 30-day certification period. The conservatorship hearing shall be held by the 30th day of the certification period. The maximum involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250, and 5270.15 shall be limited to 77 days. This section does not prevent a person from exercising their right to a hearing as stated in Sections 5275 and 5353.

SEC. 2. Section 5270.70 is added to the Welfare and Institutions Code, to read:

5270.70. (a) If, after 15 days of the 30-day period of intensive treatment pursuant to this article, but at least 7 days before expiration of the 30 days, the professional staff of the agency or facility treating the person finds that the person remains gravely disabled as a result of a mental disorder or impairment by chronic alcoholism and the person remains unwilling or unable to accept treatment voluntarily, the professional person in charge of the facility providing intensive treatment to the person may file a petition in the superior court for the county in which the facility providing intensive treatment is located, seeking approval for up to an additional 30 days of intensive treatment. The court shall immediately appoint the public defender or other attorney to represent the person in the hearing under this section, if that person does not already have counsel to represent them in the proceedings.

(b) Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient of the time and place of the judicial review, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that the patient has the right to request that this information not be provided.

(c) (1) The court shall either deny the petition or order an evidentiary hearing to be held within two court days after the petition is filed. The court may order that the person be held for up to an additional 30 days of intensive treatment if, at the evidentiary hearing, the court finds all of the following, based on the evidence presented:

(A) That the person, as a result of mental disorder or impairment by chronic alcoholism, is gravely disabled.

(B) That the person had been advised of the existence of, and has not accepted, voluntary treatment.

(C) That the facility providing intensive treatment is equipped and staffed to provide the required treatment and is designated by the county to provide intensive treatment

(D) That the person is likely to benefit from continued treatment.

(2) If the court does not make all of the findings required by paragraph (1), the person shall be released no later than the expiration of the original 30-day period.

(d) A finding under this section shall not be admissible in evidence in any civil proceeding without the consent of the person who was the subject of the finding.

(e) In no event may a person be held beyond the original 30-day period of intensive treatment unless a court has determined that an additional period of up to 30 days of treatment is required, regardless of whether or not the court hearing has been set.