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**AB-360 Excited delirium.** (2023-2024)

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**Assembly Bill No. 360**

**CHAPTER 431**

An act to add Section 1156.5 to the Evidence Code, and to add Chapter 3.5 (commencing with Section 24400) to Division 20 of the Health and Safety Code, relating to excited delirium.

[ Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 360, Gipson. Excited delirium.

(1) Existing law specifies the content of a certificate of death and sets forth the persons responsible for completing the certificate of death. Existing law requires certain medical and health content on the certificate.

This bill would prohibit "excited delirium," as defined, from being recognized as a valid medical diagnosis or cause of death in this state. The bill would prohibit a coroner, medical examiner, physician, or physician assistant from stating on the certificate of death or in any report that the cause of death was excited delirium.

(2) Existing law designates specified employees and appointees of certain public entities to be peace officers. Existing law grants certain powers to peace officers and prescribes certain requirements and responsibilities for peace officers and their employing or appointing entities.

The bill would prohibit a peace officer from using the term "excited delirium" to describe an individual in an incident report, but would not prohibit the peace officer from describing an individual's behavior, as specified.

(3) Existing law governs the rules of evidence in every action before the Supreme Court or a court of appeal or superior court, including rules relating to judicial notice, evidentiary burdens, witnesses, opinion testimony and scientific evidence, privileges, evidence affected or excluded by extrinsic policies, hearsay evidence, and writings.

This bill would deem evidence that a person experienced or suffered an excited delirium inadmissible in a civil action, but would not prohibit a party or witness from testifying as to the factual circumstances surrounding the case, including a person's demeanor, conduct, and physical and mental condition, provided it is not attributed to excited delirium.

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

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

**SECTION 1.** Section 1156.5 is added to the Evidence Code, to read:

**1156.5.** (a) Evidence that a person suffered or experienced excited delirium shall not be admitted in any civil action.

(b) A party or witness may describe the factual circumstances surrounding the case, including a person's demeanor, conduct, and physical and mental condition at issue, including, but not limited to, a person's state of agitation, excitability, paranoia, extreme aggression, physical violence, and apparent immunity to pain, but shall not describe or diagnose such demeanor, conduct, or condition by use of the term excited delirium, or attribute such demeanor, conduct, or physical and mental condition to that term.

(c) For the purposes of this section, "excited delirium" means a term used to describe a person's state of agitation, excitability, paranoia, extreme aggression, physical violence, and apparent immunity to pain that is not listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders, or for which the court finds there is insufficient scientific evidence or diagnostic criteria to be recognized as a medical condition. Excited delirium also includes excited delirium syndrome, excited delirium, hyperactive delirium, agitated delirium, and exhaustive mania.

**SEC. 2.** Chapter 3.5 (commencing with Section 24400) is added to Division 20 of the Health and Safety Code, to read:

#### **CHAPTER 3.5. Excited Delirium**

**24400.** For the purposes of this chapter, "excited delirium" means a term used to describe a person's state of agitation, excitability, paranoia, extreme aggression, physical violence, and apparent immunity to pain that is not listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders, or for which the court finds there is insufficient scientific evidence or diagnostic criteria to be recognized as a medical condition. Excited delirium also includes excited delirium syndrome, excited delirium, hyperactive delirium, agitated delirium, and exhaustive mania.

**24401.** (a) Excited delirium shall not be recognized as a valid medical diagnosis or cause of death in this state.

(b) A state or local government entity, or employee or contractor of a state or local government entity, shall not document, testify to, or otherwise use in any official capacity or communication excited delirium as a recognized medical diagnosis or cause of death.

(c) A coroner, medical examiner, physician, or physician assistant shall not state on the certificate of death, or in any report, that the cause of death was excited delirium. The term excited delirium and terms inclusive of excited delirium defined in Section 24400 shall not be listed anywhere on the death certificate.

**24402.** A peace officer shall not use the term excited delirium to describe an individual in an incident report completed by a peace officer. A peace officer may describe the characteristics of an individual's conduct, but shall not generally describe the individual's demeanor, conduct, or physical and mental condition at issue as excited delirium.

**24403.** Pursuant to Section 1156.5 of the Evidence Code, evidence that a person suffered or experienced excited delirium is inadmissible in any civil action. A party or witness may describe the factual circumstances surrounding the case, including a person's demeanor, conduct, and physical and mental condition at issue, including, but not limited to, a person's state of agitation, excitability, paranoia, extreme aggression, physical violence, and apparent immunity to pain, but shall not describe or diagnose such demeanor, conduct, or condition by use of the term excited delirium, or attribute such demeanor, conduct, or physical and mental condition to that term.