

AMENDED IN ASSEMBLY MAY 14, 2012

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL

No. 1381

Introduced by Senators Pavley, Anderson, and Rubio
(Coauthors: Senators *Correa, De León, DeSaulnier, and Evans,*
***Leno, Padilla, and Price*)**

(Coauthors: Assembly Members Ammiano, *Beall,* Blumenfield,
***Chesbro, Hill, and Huffman, and Yamada*)**

February 24, 2012

An act to amend Sections 4502 and 17206.1 of the Business and Professions Code, to amend Section 1761 of the Civil Code, to amend Sections 8769, 16191, 16195, 16196, 16200, 41306, 41401, and 51765 of the Education Code, to amend Sections 854.2, 6514, 12428, 12926, 14670.1, 14670.2, 14670.3, 14670.5, 14672.1, 14672.92, 16813, 16814, and 16816 of the Government Code, to amend Sections 1275.5, 1337.1, 1337.3, 13113, 51312, 110403, 123935, 125000, 127260, and 129395 of the Health and Safety Code, to amend Sections 10118, 10124, and 10203.4 of the Insurance Code, to amend Sections 1001.20, 1346, 1370.1, 1376, and 2962 of the Penal Code, to amend Section 1420 of the Probate Code, to amend Section 25276 of the Vehicle Code, and to amend Sections 4417, 4426, 4512, 4801, 5002, 5008, 5325, 5585.25, 6250, 6500, 6502, 6504, 6504.5, 6505, 6506, 6507, 6508, 6509, 6511, 6512, 6513, 6551, 6715, 6717, 6718, 6740, 6741, 7275, 7351, and 11014 of, and to amend the headings of Article 2 (commencing with Section 6500) of Chapter 2 of, Article 4 (commencing with Section 6715) of Chapter 3 of, and Article 4 (commencing with Section 6740) of Chapter 4 of, Part 2 of Division 6 of, the Welfare and Institutions Code, relating to intellectual disability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1381, as amended, Pavley. Mental retardation: change of term to intellectual disability.

Existing law refers to mental retardation or a mentally retarded person in provisions relating to, among other things, educational and social services, commitment to state facilities, and criminal punishment.

This bill would revise these provisions to refer instead to intellectual disability or a person with an intellectual disability. This bill would provide that nothing in these provisions shall be construed as making a substantive change in law or a change to services or the eligibility for services in revising this terminology. This bill would make related and technical changes.

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. (a) It is the intent of the Legislature to increase
2 respect for people with disabilities by eliminating the use of the
3 outdated, offensive, and misleading terms “mental retardation”
4 and “mentally retarded.”

5 (b) Nothing in this act shall be construed as making a substantive
6 change in law or a change to services being provided or eligibility
7 standards in effect at the time of enactment.

8 (c) As used in a state regulation ~~or, state publication~~ *publication*,
9 or other writing, the terms “mental retardation” and “mentally
10 retarded person” have the same meaning as the terms “intellectual
11 disability” and “person with intellectual disability,” unless the
12 context or an explicit provision of federal or state law clearly
13 requires a different meaning.

14 (d) It is the intent of the Legislature that state agencies revise
15 state regulations, ~~and~~ state publications, *Internet Web sites*, and
16 other writings *to* change the terminology as required by this act
17 when there is another reason to revise the regulation, publication,
18 *Internet Web site*, or other writing, thus eliminating any additional
19 state cost.

20 SEC. 2. Section 4502 of the Business and Professions Code is
21 amended to read:

1 4502. As used in this chapter, “psychiatric technician” means
2 any person who, for compensation or personal profit, implements
3 procedures and techniques that involve understanding of cause
4 and effect and that are used in the care, treatment, and rehabilitation
5 of mentally ill or emotionally disturbed persons, or persons with
6 intellectual disabilities, and who has one or more of the following:

7 (a) Direct responsibility for administering or implementing
8 specific therapeutic procedures, techniques, treatments, or
9 medications with the aim of enabling recipients or patients to make
10 optimal use of their therapeutic regime, their social and personal
11 resources, and their residential care.

12 (b) Direct responsibility for the application of interpersonal and
13 technical skills in the observation and recognition of symptoms
14 and reactions of recipients or patients, for the accurate recording
15 of these symptoms and reactions, and for the carrying out of
16 treatments and medications as prescribed by a licensed physician
17 and surgeon or a psychiatrist.

18 The psychiatric technician in the performance of these procedures
19 and techniques is responsible to the director of the service in which
20 his or her duties are performed. The director may be a licensed
21 physician and surgeon, psychiatrist, psychologist, rehabilitation
22 therapist, social worker, registered nurse, or other professional
23 personnel.

24 Nothing herein shall authorize a licensed psychiatric technician
25 to practice medicine or surgery or to undertake the prevention,
26 treatment, or cure of disease, pain, injury, deformity, or mental or
27 physical condition in violation of the law.

28 SEC. 3. Section 17206.1 of the Business and Professions Code
29 is amended to read:

30 17206.1. (a) (1) In addition to any liability for a civil penalty
31 pursuant to Section 17206, a person who violates this chapter, and
32 the act or acts of unfair competition are perpetrated against one or
33 more senior citizens or disabled persons, may be liable for a civil
34 penalty not to exceed two thousand five hundred dollars (\$2,500)
35 for each violation, which may be assessed and recovered in a civil
36 action as prescribed in Section 17206.

37 (2) Subject to subdivision (d), any civil penalty shall be paid as
38 prescribed by subdivisions (b) and (c) of Section 17206.

39 (b) As used in this section, the following terms have the
40 following meanings:

1 (1) “Senior citizen” means a person who is 65 years of age or
2 older.

3 (2) “Disabled person” means a person who has a physical or
4 mental impairment that substantially limits one or more major life
5 activities.

6 (A) As used in this subdivision, “physical or mental impairment”
7 means any of the following:

8 (i) A physiological disorder or condition, cosmetic
9 disfigurement, or anatomical loss substantially affecting one or
10 more of the following body systems: neurological; musculoskeletal;
11 special sense organs; respiratory, including speech organs;
12 cardiovascular; reproductive; digestive; genitourinary; hemic and
13 lymphatic; skin; or endocrine.

14 (ii) A mental or psychological disorder, including intellectual
15 disability, organic brain syndrome, emotional or mental illness,
16 and specific learning disabilities.

17 “Physical or mental impairment” includes, but is not limited to,
18 diseases and conditions including orthopedic, visual, speech, and
19 hearing impairment, cerebral palsy, epilepsy, muscular dystrophy,
20 multiple sclerosis, cancer, heart disease, diabetes, intellectual
21 disability, and emotional illness.

22 (B) “Major life activities” means functions that include caring
23 for one’s self, performing manual tasks, walking, seeing, hearing,
24 speaking, breathing, learning, and working.

25 (c) In determining whether to impose a civil penalty pursuant
26 to subdivision (a) and the amount thereof, the court shall consider,
27 in addition to any other appropriate factors, the extent to which
28 one or more of the following factors are present:

29 (1) Whether the defendant knew or should have known that his
30 or her conduct was directed to one or more senior citizens or
31 disabled persons.

32 (2) Whether the defendant’s conduct caused one or more senior
33 citizens or disabled persons to suffer any of the following: loss or
34 encumbrance of a primary residence, principal employment, or
35 source of income; substantial loss of property set aside for
36 retirement, or for personal or family care and maintenance; or
37 substantial loss of payments received under a pension or retirement
38 plan or a government benefits program, or assets essential to the
39 health or welfare of the senior citizen or disabled person.

1 (3) Whether one or more senior citizens or disabled persons are
2 substantially more vulnerable than other members of the public to
3 the defendant’s conduct because of age, poor health or infirmity,
4 impaired understanding, restricted mobility, or disability, and
5 actually suffered substantial physical, emotional, or economic
6 damage resulting from the defendant’s conduct.

7 (d) A court of competent jurisdiction hearing an action pursuant
8 to this section may make orders and judgments as necessary to
9 restore to a senior citizen or disabled person money or property,
10 real or personal that may have been acquired by means of a
11 violation of this chapter. Restitution ordered pursuant to this
12 subdivision shall be given priority over recovery of a civil penalty
13 designated by the court as imposed pursuant to subdivision (a),
14 but shall not be given priority over a civil penalty imposed pursuant
15 to subdivision (a) of Section 17206. If the court determines that
16 full restitution cannot be made to those senior citizens or disabled
17 persons, either at the time of judgment or by a future date
18 determined by the court, then restitution under this subdivision
19 shall be made on a pro rata basis depending on the amount of loss.

20 SEC. 4. Section 1761 of the Civil Code is amended to read:

21 1761. As used in this title:

22 (a) “Goods” means tangible chattels bought or leased for use
23 primarily for personal, family, or household purposes, including
24 certificates or coupons exchangeable for these goods, and including
25 goods that, at the time of the sale or subsequently, are to be affixed
26 to real property as to become a part of real property, whether or
27 not they are severable from the real property.

28 (b) “Services” means work, labor, and services for other than
29 a commercial or business use, including services furnished in
30 connection with the sale or repair of goods.

31 (c) “Person” means an individual, partnership, corporation,
32 limited liability company, association, or other group, however
33 organized.

34 (d) “Consumer” means an individual who seeks or acquires, by
35 purchase or lease, any goods or services for personal, family, or
36 household purposes.

37 (e) “Transaction” means an agreement between a consumer and
38 another person, whether or not the agreement is a contract
39 enforceable by action, and includes the making of, and the
40 performance pursuant to, that agreement.

1 (f) “Senior citizen” means a person who is 65 years of age or
2 older.

3 (g) “Disabled person” means a person who has a physical or
4 mental impairment that substantially limits one or more major life
5 activities.

6 (1) As used in this subdivision, “physical or mental impairment”
7 means any of the following:

8 (A) A physiological disorder or condition, cosmetic
9 disfigurement, or anatomical loss substantially affecting one or
10 more of the following body systems: neurological; musculoskeletal;
11 special sense organs; respiratory, including speech organs;
12 cardiovascular; reproductive; digestive; genitourinary; hemic and
13 lymphatic; skin; or endocrine.

14 (B) A mental or psychological disorder, including intellectual
15 disability, organic brain syndrome, emotional or mental illness,
16 and specific learning disabilities. “Physical or mental impairment”
17 includes, but is not limited to, diseases and conditions including
18 orthopedic, visual, speech, and hearing impairment, cerebral palsy,
19 epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart
20 disease, diabetes, intellectual disability, and emotional illness.

21 (2) “Major life activities” means functions that include caring
22 for one’s self, performing manual tasks, walking, seeing, hearing,
23 speaking, breathing, learning, and working.

24 (h) “Home solicitation” means a transaction made at the
25 consumer’s primary residence, except those transactions initiated
26 by the consumer. A consumer response to an advertisement is not
27 a home solicitation.

28 SEC. 5. Section 8769 of the Education Code is amended to
29 read:

30 8769. The county superintendent of schools may, with the
31 approval of the county board of education, lease real or personal
32 property for the purpose of care, teaching, and training of
33 physically handicapped children or children with intellectual
34 disabilities if the property is not required for outdoor science
35 education and conservation education, upon the terms and
36 conditions that are agreed upon.

37 SEC. 6. Section 16191 of the Education Code is amended to
38 read:

39 16191. As used in this article, “exceptional children” means
40 physically handicapped pupils, pupils with intellectual disabilities,

1 educationally handicapped pupils, multihandicapped pupils, or
2 pupils enrolled in development centers for the handicapped required
3 or allowed to be educated pursuant to Part 30 (commencing with
4 Section 56000).

5 SEC. 7. Section 16195 of the Education Code is amended to
6 read:

7 16195. Allocations under this article may be made in the
8 amount as may be necessary, and in the manner as to distribute
9 the available funds equitably among school districts, giving
10 consideration to the needs of each district and the number of
11 children within each district who are blind, partially seeing,
12 aphasic, deaf, hard of hearing, orthopedically impaired, or have
13 an intellectual disability, or who are health impaired,
14 multihandicapped, speech handicapped, educationally handicapped,
15 or enrolled in development centers for the handicapped.

16 In computing the number of those children, there shall be
17 included all of the following:

18 (a) The number of them residing in the district.

19 (b) The number of handicapped minors who are actually living
20 within the district five or more days a week, although their legal
21 residence may be outside the district, and who are educated
22 pursuant to former Section 56708, as enacted by Section 2 of
23 Chapter 1010 of the Statutes of 1976.

24 (c) The number of them who reside outside of the district, except
25 those described in subdivision (b), and who are to be educated by
26 the district, excluding minors with intellectual disabilities within
27 former Section 56501, as amended by Section 58 of Chapter 1247
28 of the Statutes of 1977, who reside within a district having an
29 average daily attendance of 900 or more and that does not meet
30 the requirements of Section 16058 concerning outstanding bonded
31 indebtedness.

32 Allocations for housing and equipment for minors having speech
33 defects or disorders shall be allowed in new schools constructed
34 after July 1, 1968, and in existing schools constructed between
35 July 1, 1933, and July 1, 1968. The housing and equipment shall
36 be designed and provided to permit their utilization for remedial
37 and other special services including speech therapy, speech reading
38 (lipreading), and auditory training for the speech and hearing
39 handicapped, screening and testing for speech and hearing defects,
40 or both, psychological testing of exceptional children, subject

1 matter tutoring of exceptional children, and other specialized
2 activities required by these children. In addition to the maximum
3 building area allowances provided in Sections 16047, 16052,
4 16053, and 16054, not more than an additional 200 square feet of
5 building area shall be allowed for each new school planned and
6 constructed.

7 Each existing school, constructed between July 1, 1933, and July
8 1, 1968, shall be allowed not more than an additional 200 square
9 feet of building area only for construction thereon of a new speech
10 facility. At the option of the applicant district, the board may
11 allocate funds to convert existing facilities or to provide a
12 combination of new construction and conversion of existing
13 facilities to provide housing for minors having speech defects or
14 disorders, provided the cost of the conversion or combination of
15 new construction and conversion does not exceed the computed
16 cost for 200 square feet of new classroom construction based upon
17 cost standards adopted by the board. At the further option of the
18 applicant district, and in lieu of new building construction or
19 conversion, the board may allocate funds for the acquisition of
20 mobile speech therapy facilities, provided the cost of the mobile
21 facilities does not exceed the combined computed cost for 200
22 square feet of new classroom construction, based upon cost
23 standards adopted by the board, at all schools that will be served
24 by the mobile facility.

25 SEC. 8. Section 16196 of the Education Code is amended to
26 read:

27 16196. Notwithstanding any provisions of this article to the
28 contrary, apportionments for the construction of facilities and the
29 purchase of essential furniture and equipment for the education of
30 exceptional children may, subject to the approval of the State
31 Department of Education, be made to a school district not otherwise
32 eligible to receive apportionments under Article 1 (commencing
33 with Section 16000) and Article 2 (commencing with Section
34 16150) of this chapter, for the education of blind, partially seeing,
35 aphasic, deaf, hard-of-hearing, orthopedically impaired or other
36 health-impaired, multihandicapped, and educationally handicapped
37 minors, minors with intellectual disabilities, pupils having speech
38 defects or disorders, or pupils enrolled in development centers for
39 the handicapped.

1 The State Department of Education may approve applications
2 if the facilities will be used by a county superintendent of schools
3 required to educate physically handicapped minors pursuant to
4 former Section 1850, as enacted by Section 2 of Chapter 1010 of
5 the Statutes of 1976, and minors with intellectual disabilities
6 pursuant to former Section 1880, as enacted by Section 2 of
7 Chapter 1010 of the Statutes of 1976. A school district may educate
8 these minors by agreement with a county superintendent of schools
9 required to educate these minors. Priority in the use of the facilities
10 shall be given to pupils from districts other than the applicant
11 district.

12 Except as otherwise provided in this section, not more than 50
13 percent of the amount of an apportionment made pursuant to this
14 section shall be repaid. Repayments shall be made in the following
15 manner: 50 percent of the amount of the apportionment shall be
16 repaid in full with interest by the district, in the annual amounts
17 and at the interest rate over the period as the State Allocation Board
18 may determine, not to exceed 20 years from the date the
19 apportionment became final. In a school year in which 50 percent
20 or more of the pupils in average daily attendance, as determined
21 by the county superintendent of schools, and served by the facilities
22 are not pupils from districts other than the applicant district, the
23 repayment for the succeeding fiscal year shall be an amount that
24 would have been payable if the district had been required to repay
25 100 percent of the apportionment over that period.

26 The county board of supervisors of the county whose
27 superintendent of schools conducts classes in the facility during
28 any fiscal year shall at that time or times within the fiscal year that
29 may be agreed upon between the county and the school district,
30 but in any case not later than the end of the fiscal year, pay to the
31 school district having the obligation to repay the apportionment
32 made under this section for the construction of the facility, an
33 amount equal to 80 percent of the amount the district is required
34 to repay in the fiscal year with respect to the apportionment
35 described above.

36 The county board of supervisors shall raise the amount required
37 through a general tax levy on the property within the participating
38 districts, or through a tuition charge not to exceed one hundred
39 sixty dollars (\$160) a year per pupil by the county superintendent
40 of schools to the school districts of residence of pupils attending

1 the facility other than the district having the obligation to repay,
2 or through a combination of these.

3 The county superintendent of schools shall notify the county
4 board of supervisors of his or her intention to approve a school
5 district's application for an allocation under this article before he
6 or she approves the application.

7 SEC. 9. Section 16200 of the Education Code is amended to
8 read:

9 16200. Notwithstanding any provisions of this article to the
10 contrary, the board may make apportionments to school districts
11 not otherwise eligible to receive apportionments under Article 1
12 (commencing with Section 16000) and Article 2 (commencing
13 with Section 16150) for the construction of special education
14 facilities and the purchase of essential furniture and equipment for
15 the purpose of either or both of the following: (1) educating those
16 physically handicapped and educationally handicapped pupils and
17 pupils with intellectual disabilities who regularly reside in an
18 established, licensed children's institution or family home and are
19 being educated pursuant to former Section 42902, as amended by
20 Section 1 of Chapter 1173 of the Statutes of 1977, and (2)
21 educating handicapped pupils in development centers for
22 handicapped pupils pursuant to former Article 1 (commencing
23 with Section 56800) of Chapter 6 of Part 30, as enacted by Section
24 2 of Chapter 1010 of the Statutes of 1976.

25 Only 50 percent of any amounts allocated and disbursed to a
26 district under this section shall be repaid by the district. Each
27 disbursement shall be repaid in 20 equal annual installments,
28 including interest as determined by the board, and shall be
29 computed and withheld by the Controller. The first computation
30 of repayment of any disbursement shall be made in the fiscal year
31 following the disbursement and shall during the next fiscal year
32 be deducted in equal amounts from the February, March, April,
33 and May installments of the apportionment made to the district
34 from the State School Fund under Sections 41330 to 41343,
35 inclusive, and Sections 41600 to 41972, inclusive.

36 SEC. 10. Section 41306 of the Education Code is amended to
37 read:

38 41306. The Superintendent of Public Instruction shall also
39 allow as otherwise provided in Section 41304 for the driver training
40 instruction necessary to be safely tested for a driver's license at

1 the Department of Motor Vehicles, those physically handicapped
2 pupils, pupils with intellectual disabilities who come within the
3 provisions of former Section 56501 as amended by Chapter 1247
4 of the Statutes of 1977, and educationally handicapped pupils who
5 are in attendance in a public secondary school in California that
6 offers qualified instruction, and who may qualify for a driver's
7 license, or other license, issued by the Department of Motor
8 Vehicles, a total allowance not to exceed two hundred ninety
9 dollars (\$290) including the reimbursement provisions set forth in
10 Section 41900 to each school district and county superintendent
11 of schools. All driver training for pupils herein described shall be
12 provided by qualified teachers, as defined by Sections 41906 and
13 41907. The provisions of this section may not be applied if
14 reimbursement allowable under Sections 41900 to 41912, inclusive,
15 is sufficient to meet the total cost of instruction as herein described.

16 It is the intent of the Legislature that driver training instruction
17 be provided to pupils as a part of the high school curriculum, and
18 the Legislature finds and declares that exceptional children are
19 entitled to the benefit of that instruction so far as their individual
20 capabilities permit, understanding that those pupils herein described
21 often require individualized and amplified driver training
22 instruction in order to succeed in becoming safe operators of motor
23 vehicles. Since without a means of self-transportation much of the
24 overall program of education and rehabilitation provided for by
25 the Legislature would be of little avail to the person without the
26 mobility required to become a productive and well-adjusted
27 member of society, the Legislature further declares that it is
28 incumbent upon the state to share in the cost of providing a most
29 needed and desirable program of driver training instruction for
30 these exceptional children.

31 SEC. 11. Section 41401 of the Education Code is amended to
32 read:

33 41401. For the purposes of this article:

34 (a) "Administrative employee" means an employee of a school
35 district, employed in a position requiring certification
36 qualifications, who does not come within the definition set forth
37 in subdivision (c) or (d).

38 (b) "Classified employee" means an employee of a school
39 district, employed in a position not requiring certification
40 qualifications.

1 (c) “Pupil services employee” means an employee of a school
2 district, employed in a position requiring a standard designated
3 services credential, health and development credential, or a
4 librarian credential, who performs direct services to pupils. “Pupil
5 services employee” includes, but is not limited to, in-school
6 librarians, school nurses, assistant in-school librarians, audiovisual
7 personnel, counselors, psychologists, psychometrists, guidance
8 and welfare personnel, attendance personnel, school social workers,
9 and all other certificated personnel performing pupil-personnel,
10 health, or librarian services.

11 (d) “Teacher” means an employee of a school district, employed
12 in a position requiring certification qualifications, whose duties
13 require him or her to provide direct instruction to pupils in the
14 schools of that district for the full time for which he or she is
15 employed. “Teacher” includes, but is not limited to, teachers of
16 special classes, teachers of exceptional children, teachers of pupils
17 with physical disabilities, teachers of minors with intellectual
18 disabilities, substitute teachers, instructional television teachers,
19 specialist mathematics teachers, specialist reading teachers, home
20 and hospital teachers, and learning disability group teachers.
21 Instructional preparation time shall be counted as part of the teacher
22 full-time equivalent, including, but not limited to, mentor teacher
23 or department chairperson time.

24 SEC. 12. Section 51765 of the Education Code is amended to
25 read:

26 51765. The governing board of a school district that establishes
27 and supervises a work experience education program in which
28 pupils with intellectual disabilities are employed in part-time jobs
29 may use funds derived from any source, to the extent permissible
30 by appropriate law or regulation, to pay the wages of pupils who
31 are employed.

32 The Legislature hereby finds and declares that the authority
33 granted by the provisions of this section is necessary to ensure that
34 the work experience education program will continue to provide
35 maximum educational benefit to students, particularly pupils with
36 intellectual disabilities, and that the program is deemed to serve a
37 public purpose.

38 SEC. 13. Section 854.2 of the Government Code is amended
39 to read:

1 854.2. As used in this chapter, “mental institution” means a
2 state hospital for the care and treatment of the mentally disordered
3 or persons with intellectual disabilities, the California
4 Rehabilitation Center referred to in Section 3300 of the Welfare
5 and Institutions Code, or a county psychiatric hospital.

6 SEC. 14. Section 6514 of the Government Code is amended
7 to read:

8 6514. A state department or agency concerned with the
9 provisions of services or facilities to persons with intellectual
10 disabilities and their families may enter into agreements under this
11 chapter.

12 SEC. 15. Section 12428 of the Government Code is amended
13 to read:

14 12428. In the event either the Governor or the Legislature
15 should obtain federal approval to transfer programs receiving
16 federal support for persons who have intellectual disabilities or
17 mental disorders from one state department to another state
18 department under the provisions of Public Law 90-577
19 (Intergovernmental Cooperation Act of 1968), the Controller shall,
20 upon approval of the Director of Finance, transfer to a department
21 designated by the Governor the parts of the appropriation of the
22 other departments that are related to programs for people who have
23 intellectual disabilities or mental disorders, provided further, that
24 the transfer shall enable the state to make maximum utilization of
25 available state and federal funds.

26 SEC. 16. Section 12926 of the Government Code is amended
27 to read:

28 12926. As used in this part in connection with unlawful
29 practices, unless a different meaning clearly appears from the
30 context:

31 (a) “Affirmative relief” or “prospective relief” includes the
32 authority to order reinstatement of an employee, awards of backpay,
33 reimbursement of out-of-pocket expenses, hiring, transfers,
34 reassignments, grants of tenure, promotions, cease and desist
35 orders, posting of notices, training of personnel, testing, expunging
36 of records, reporting of records, and any other similar relief that
37 is intended to correct unlawful practices under this part.

38 (b) “Age” refers to the chronological age of an individual who
39 has reached his or her 40th birthday.

1 (c) “Employee” does not include an individual employed by his
2 or her parents, spouse, or child, or an individual employed under
3 a special license in a nonprofit sheltered workshop or rehabilitation
4 facility.

5 (d) “Employer” includes a person regularly employing five or
6 more persons, or a person acting as an agent of an employer,
7 directly or indirectly, the state or any political or civil subdivision
8 of the state, and cities, except as follows:

9 “Employer” does not include a religious association or
10 corporation not organized for private profit.

11 (e) “Employment agency” includes a person undertaking for
12 compensation to procure employees or opportunities to work.

13 (f) “Essential functions” means the fundamental job duties of
14 the employment position the individual with a disability holds or
15 desires. “Essential functions” does not include the marginal
16 functions of the position.

17 (1) A job function may be considered essential for any of several
18 reasons, including, but not limited to, any one or more of the
19 following:

20 (A) The function may be essential because the reason the
21 position exists is to perform that function.

22 (B) The function may be essential because of the limited number
23 of employees available among whom the performance of that job
24 function can be distributed.

25 (C) The function may be highly specialized, so that the
26 incumbent in the position is hired for his or her expertise or ability
27 to perform the particular function.

28 (2) Evidence of whether a particular function is essential
29 includes, but is not limited to, the following:

30 (A) The employer’s judgment as to which functions are essential.

31 (B) Written job descriptions prepared before advertising or
32 interviewing applicants for the job.

33 (C) The amount of time spent on the job performing the function.

34 (D) The consequences of not requiring the incumbent to perform
35 the function.

36 (E) The terms of a collective bargaining agreement.

37 (F) The work experiences of past incumbents in the job.

38 (G) The current work experience of incumbents in similar jobs.

39 (g) (1) “Genetic information” means, with respect to an
40 individual, information about any of the following:

- 1 (A) The individual’s genetic tests.
- 2 (B) The genetic tests of family members of the individual.
- 3 (C) The manifestation of a disease or disorder in family members
- 4 of the individual.
- 5 (2) “Genetic information” includes a request for, or receipt of,
- 6 genetic services, or participation in clinical research that includes
- 7 genetic services, by an individual or a family member of the
- 8 individual.
- 9 (3) “Genetic information” does not include information about
- 10 the sex or age of an individual.
- 11 (h) “Labor organization” includes an organization that exists
- 12 and is constituted for the purpose, in whole or in part, of collective
- 13 bargaining or of dealing with employers concerning grievances,
- 14 terms or conditions of employment, or of other mutual aid or
- 15 protection.
- 16 (i) “Medical condition” means either of the following:
- 17 (1) A health impairment related to or associated with a diagnosis
- 18 of cancer or a record or history of cancer.
- 19 (2) Genetic characteristics. For purposes of this section, “genetic
- 20 characteristics” means either of the following:
- 21 (A) A scientifically or medically identifiable gene or
- 22 chromosome, or combination or alteration thereof, that is known
- 23 to be a cause of a disease or disorder in a person or his or her
- 24 offspring, or that is determined to be associated with a statistically
- 25 increased risk of development of a disease or disorder, and that is
- 26 presently not associated with any symptoms of a disease or
- 27 disorder.
- 28 (B) Inherited characteristics that may derive from the individual
- 29 or family member, that are known to be a cause of a disease or
- 30 disorder in a person or his or her offspring, or that are determined
- 31 to be associated with a statistically increased risk of development
- 32 of a disease or disorder, and that are presently not associated with
- 33 any symptoms of a disease or disorder.
- 34 (j) “Mental disability” includes, but is not limited to, all of the
- 35 following:
- 36 (1) Having a mental or psychological disorder or condition,
- 37 including intellectual disability, organic brain syndrome, emotional
- 38 or mental illness, or specific learning disabilities, that limits a
- 39 major life activity. For purposes of this section:

1 (A) “Limits” shall be determined without regard to mitigating
2 measures, including medications, assistive devices, or reasonable
3 accommodations, unless the mitigating measure itself limits a
4 major life activity.

5 (B) A mental or psychological disorder or condition limits a
6 major life activity if it makes the achievement of the major life
7 activity difficult.

8 (C) “Major life activities” shall be broadly construed and shall
9 include physical, mental, and social activities and working.

10 (2) Any other mental or psychological disorder or condition not
11 described in paragraph (1) that requires special education or related
12 services.

13 (3) Having a record or history of a mental or psychological
14 disorder or condition described in paragraph (1) or (2), which is
15 known to the employer or other entity covered by this part.

16 (4) Being regarded or treated by the employer or other entity
17 covered by this part as having, or having had, a mental condition
18 that makes achievement of a major life activity difficult.

19 (5) Being regarded or treated by the employer or other entity
20 covered by this part as having, or having had, a mental or
21 psychological disorder or condition that has no present disabling
22 effect, but that may become a mental disability as described in
23 paragraph (1) or (2).

24 “Mental disability” does not include sexual behavior disorders,
25 compulsive gambling, kleptomania, pyromania, or psychoactive
26 substance use disorders resulting from the current unlawful use of
27 controlled substances or other drugs.

28 (k) “On the bases enumerated in this part” means or refers to
29 discrimination on the basis of one or more of the following: race,
30 religious creed, color, national origin, ancestry, physical disability,
31 mental disability, medical condition, genetic information, marital
32 status, sex, age, or sexual orientation.

33 (l) “Physical disability” includes, but is not limited to, all of the
34 following:

35 (1) Having a physiological disease, disorder, condition, cosmetic
36 disfigurement, or anatomical loss that does both of the following:

37 (A) Affects one or more of the following body systems:
38 neurological, immunological, musculoskeletal, special sense
39 organs, respiratory, including speech organs, cardiovascular,

1 reproductive, digestive, genitourinary, hemic and lymphatic, skin,
2 and endocrine.

3 (B) Limits a major life activity. For purposes of this section:

4 (i) “Limits” shall be determined without regard to mitigating
5 measures, including medications, assistive devices, prosthetics, or
6 reasonable accommodations, unless the mitigating measure itself
7 limits a major life activity.

8 (ii) A physiological disease, disorder, condition, cosmetic
9 disfigurement, or anatomical loss limits a major life activity if it
10 makes the achievement of the major life activity difficult.

11 (iii) “Major life activities” shall be broadly construed and
12 includes physical, mental, and social activities and working.

13 (2) Any other health impairment not described in paragraph (1)
14 that requires special education or related services.

15 (3) Having a record or history of a disease, disorder, condition,
16 cosmetic disfigurement, anatomical loss, or health impairment
17 described in paragraph (1) or (2), which is known to the employer
18 or other entity covered by this part.

19 (4) Being regarded or treated by the employer or other entity
20 covered by this part as having, or having had, a physical condition
21 that makes achievement of a major life activity difficult.

22 (5) Being regarded or treated by the employer or other entity
23 covered by this part as having, or having had, a disease, disorder,
24 condition, cosmetic disfigurement, anatomical loss, or health
25 impairment that has no present disabling effect but may become
26 a physical disability as described in paragraph (1) or (2).

27 (6) “Physical disability” does not include sexual behavior
28 disorders, compulsive gambling, kleptomania, pyromania, or
29 psychoactive substance use disorders resulting from the current
30 unlawful use of controlled substances or other drugs.

31 (m) Notwithstanding subdivisions (j) and (l), if the definition
32 of “disability” used in the federal Americans with Disabilities Act
33 of 1990 (P.L. 101-336) would result in broader protection of the
34 civil rights of individuals with a mental disability or physical
35 disability, as defined in subdivision (j) or (l), or would include a
36 medical condition not included within those definitions, then that
37 broader protection or coverage shall be deemed incorporated by
38 reference into, and shall prevail over conflicting provisions of, the
39 definitions in subdivisions (j) and (l).

1 (n) “Race, religious creed, color, national origin, ancestry,
2 physical disability, mental disability, medical condition, genetic
3 information, marital status, sex, age, or sexual orientation” includes
4 a perception that the person has any of those characteristics or that
5 the person is associated with a person who has, or is perceived to
6 have, any of those characteristics.

7 (o) “Reasonable accommodation” may include either of the
8 following:

9 (1) Making existing facilities used by employees readily
10 accessible to, and usable by, individuals with disabilities.

11 (2) Job restructuring, part-time or modified work schedules,
12 reassignment to a vacant position, acquisition or modification of
13 equipment or devices, adjustment or modifications of examinations,
14 training materials, or policies, the provision of qualified readers
15 or interpreters, and other similar accommodations for individuals
16 with disabilities.

17 (p) “Religious creed,” “religion,” “religious observance,”
18 “religious belief,” and “creed” include all aspects of religious
19 belief, observance, and practice.

20 (q) “Sex” includes, but is not limited to, pregnancy, childbirth,
21 or medical conditions related to pregnancy or childbirth. “Sex”
22 also includes, but is not limited to, a person’s gender. “Gender”
23 means sex, and includes a person’s gender identity and gender
24 expression. “Gender expression” means a person’s gender-related
25 appearance and behavior whether or not stereotypically associated
26 with the person’s assigned sex at birth.

27 (r) “Sexual orientation” means heterosexuality, homosexuality,
28 and bisexuality.

29 (s) “Supervisor” means an individual having the authority, in
30 the interest of the employer, to hire, transfer, suspend, layoff, recall,
31 promote, discharge, assign, reward, or discipline other employees,
32 or the responsibility to direct them, or to adjust their grievances,
33 or effectively to recommend that action, if, in connection with the
34 foregoing, the exercise of that authority is not of a merely routine
35 or clerical nature, but requires the use of independent judgment.

36 (t) “Undue hardship” means an action requiring significant
37 difficulty or expense, when considered in light of the following
38 factors:

39 (1) The nature and cost of the accommodation needed.

1 (2) The overall financial resources of the facilities involved in
2 the provision of the reasonable accommodations, the number of
3 persons employed at the facility, and the effect on expenses and
4 resources or the impact otherwise of these accommodations upon
5 the operation of the facility.

6 (3) The overall financial resources of the covered entity, the
7 overall size of the business of a covered entity with respect to the
8 number of employees, and the number, type, and location of its
9 facilities.

10 (4) The type of operations, including the composition, structure,
11 and functions of the workforce of the entity.

12 (5) The geographic separateness, administrative, or fiscal
13 relationship of the facility or facilities.

14 SEC. 17. Section 14670.1 of the Government Code is amended
15 to read:

16 14670.1. Notwithstanding Section 14670, the Director of
17 General Services, with the consent of the State Department of
18 Mental Health, may let to a nonprofit corporation, for the purpose
19 of conducting an educational and work program for persons with
20 intellectual disabilities, and for a period not to exceed 50 years,
21 real property not exceeding 10 acres located within the grounds
22 of the Napa State Hospital.

23 The lease authorized by this section shall be nonassignable and
24 shall be subject to periodic review every five years. The review
25 shall be made by the Director of General Services, who shall do
26 both of the following:

27 (a) Assure the state that the original purposes of the lease are
28 being carried out.

29 (b) Determine what, if any, adjustment should be made in the
30 terms of the lease.

31 The lease shall also provide for an initial capital outlay by the
32 lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976.
33 The capital outlay may be, or may have been, contributed before
34 or after the effective date of the act adding this section.

35 SEC. 18. Section 14670.2 of the Government Code, as amended
36 by Section 1 of Chapter 65 of the Statutes of 1992, is amended to
37 read:

38 14670.2. Notwithstanding Section 14670, the Director of
39 General Services, with the consent of the State Department of
40 Mental Health, may, in the best interests of the state, let to a public

1 governmental agency, for the purpose of locating and conducting
2 its training program for people with intellectual disabilities, and
3 for locating and conducting a child-care facility, and for a period
4 not to exceed 50 years, real property not exceeding 10 acres located
5 within the grounds of the Napa State Hospital. For the additional
6 purpose of establishing an educational park, the director may, with
7 the consent of the department, renegotiate the lease, for a period
8 not to exceed 50 years, which period shall commence January 1,
9 1993. For the purposes of this section, “educational park” means
10 a conglomerate of educational services, including, but not limited
11 to, a children’s center, a preschool for severely disabled children,
12 adult educational services, administrative offices, a community
13 school, and a media services building.

14 The lease authorized by this section shall be nonassignable and
15 shall be subject to periodic review every five years. That review
16 shall be made by the Director of General Services, who shall do
17 both of the following:

18 (a) Assure the state the purposes of the lease are being carried
19 out.

20 (b) Determine what, if any, adjustment should be made in the
21 terms of the lease.

22 The lease shall also provide for the establishment of a school
23 building facility by the lessee prior to July 1, 1977. That facility
24 shall not be established until after the effective date of the act
25 amending this section.

26 SEC. 19. Section 14670.3 of the Government Code is amended
27 to read:

28 14670.3. Notwithstanding Section 14670, the Director of
29 General Services, with the consent of the State Department of
30 Mental Health, may let to a nonprofit corporation, for the purpose
31 of conducting an educational and work program for persons with
32 intellectual disabilities, and for a period not to exceed 55 years,
33 real property not exceeding five acres located within the grounds
34 of the Fairview State Hospital.

35 The lease authorized by this section shall be nonassignable and
36 shall be subject to periodic review every five years. The review
37 shall be made by the Director of General Services, who shall do
38 both of the following:

39 (a) Assure the state that the original purposes of the lease are
40 being carried out.

1 (b) Determine what, if any, adjustment should be made in the
2 terms of the lease.

3 The lease shall also provide for an initial capital outlay by the
4 lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976.
5 The capital outlay may be, or may have been, contributed before
6 or after the effective date of the act adding this section.

7 SEC. 20. Section 14670.5 of the Government Code is amended
8 to read:

9 14670.5. Notwithstanding Section 14670, the Director of
10 General Services, with the consent of the State Department of
11 Mental Health may let to a nonprofit corporation, for the purpose
12 of establishing and maintaining a rehabilitation center for persons
13 with intellectual disabilities, for a period not exceeding 20 years,
14 real property, not exceeding five acres, located within the grounds
15 of the Fairview State Hospital in Orange County, and that is
16 retained by the state primarily to provide a peripheral buffer area,
17 or zone, between real property that the state hospital is located on
18 and adjacent real property, if the director deems the letting is in
19 the best interests of the state.

20 SEC. 21. Section 14672.1 of the Government Code is amended
21 to read:

22 14672.1. Notwithstanding Section 14670, the Director of
23 General Services, with the consent of the Department of
24 Corrections and Rehabilitation, may let to a nonprofit corporation,
25 for the purpose of conducting an educational and work program
26 for persons with intellectual disabilities, and for a period not to
27 exceed 50 years, real property not exceeding 10 acres, located
28 within the grounds of the Medical Facility at Vacaville, California.

29 A lease executed pursuant to this section shall include a provision
30 that the lease shall be canceled if permanent facilities are not
31 constructed on the leased land within five years after the effective
32 date of the amendments to this section enacted at the 1967 Regular
33 Session of the Legislature.

34 A lease executed pursuant to this section may be assigned or
35 sublet in whole or in part by the lessee nonprofit corporation to
36 any public agency with the approval of the Director of General
37 Services and the Department of Corrections and Rehabilitation.

38 SEC. 22. Section 14672.92 of the Government Code is amended
39 to read:

1 14672.92. Notwithstanding Section 14670, the Director of
2 General Services, with the consent of the State Department of
3 Developmental Services, may let to a nonprofit corporation, for
4 the purpose of conducting an educational and work program for
5 persons with intellectual disabilities, and for a period not to exceed
6 50 years, real property not exceeding 18.50 acres located within
7 the grounds of the Camarillo State Hospital at 1732 Lewis Road
8 in the City of Camarillo.

9 The lease authorized by this section shall be nonassignable and
10 shall be subject to periodic review every five years. The review
11 shall be made by the Director of General Services and the Director
12 of Developmental Services who shall do all of the following:

13 (a) Assure the state the original purposes of the lease are being
14 carried out.

15 (b) Determine what, if any, adjustment should be made in the
16 terms of the lease.

17 SEC. 23. Section 16813 of the Government Code is amended
18 to read:

19 16813. Bonds of the State of California shall be prepared,
20 issued, and sold in the amount of one hundred million dollars
21 (\$100,000,000), in such denominations, to be numbered, to bear
22 such dates, and to bear such rate of interest as shall be determined
23 by the Legislature.

24 The proceeds of such bonds shall be used:

25 (a) Subject to such legislation as the Legislature may, from time
26 to time, enact, to provide loans and grants to school districts of the
27 state for use in purchasing and improving schoolsites, the
28 purchasing of furniture and equipment for schools, and the planning
29 and constructing, reconstructing, repairing, altering, and making
30 additions to, school buildings.

31 (b) Subject to such legislation as the Legislature may, from time
32 to time, enact, to provide loans and grants to school districts for
33 assistance in providing necessary housing and equipment for the
34 education of individuals who have exceptional needs, as that term
35 is defined in Section 56026 of the Education Code.

36 (c) To pay the expenses that may be incurred in preparing,
37 advertising, issuing, and selling the bonds, and in administering
38 and directing the expenditure of the moneys realized from the sale
39 of such bonds.

1 The issuance, signing, countersigning, endorsing, and selling of
2 the bonds herein provided for, and the interest coupons thereon,
3 the place and method of payment of principal and interest thereon,
4 the procedure for initiating, advertising and holding sales thereof,
5 and the performance by the several state boards and state officers
6 of their respective duties in connection therewith; and all other
7 provisions, terms, and conditions relating to the bonds, shall be as
8 provided by the Legislature.

9 The Legislature may appropriate money to be expended in
10 addition to or in lieu of the money received from the sale of the
11 bonds sold under the authority of this section. The money so
12 appropriated shall be expended pursuant to subdivision (a) of this
13 section. If the Legislature appropriates money in lieu of the money
14 received from the sale of the bonds, the total amount of bonds
15 required to be sold pursuant to this section shall be reduced by the
16 amount so appropriated.

17 The Legislature shall pass all laws, general or special, necessary
18 or convenient to carry into effect the provisions of this section.
19 Such laws may provide for the allocation of funds to school
20 districts pursuant to this section by the State Allocation Board or
21 a similar agency and in that event, notwithstanding any other
22 provision of this Constitution, Members of the Legislature who
23 are required to meet with such board shall have equal rights and
24 duties with the nonlegislative members to vote and act upon matters
25 pending before such board.

26 The Legislature shall require each district receiving an allocation
27 of money from the sale of bonds pursuant to this section for the
28 purposes prescribed in subdivision (a) of this section to repay such
29 money to the state on such terms and in such amounts as may be
30 within the ability of the district to repay.

31 The Legislature may require each district receiving an allocation
32 of money from the sale of bonds pursuant to this section for the
33 purposes prescribed in subdivision (b) of this section to repay such
34 money to the state on such terms and in such amounts as the
35 Legislature deems proper.

36 The people of the State of California in adopting this section
37 hereby declare that it is in the interests of the state and of the people
38 thereof for the state to aid school districts of the state in providing
39 necessary schoolsites and buildings for the pupils of the public
40 school system, such system being a matter of general concern

1 inasmuch as the education of the children of the state is an
2 obligation and function of the state.

3 SEC. 24. Section 16814 of the Government Code is amended
4 to read:

5 16814. Bonds of the State of California shall be prepared,
6 issued, and sold in the amount of two hundred twenty million
7 dollars (\$220,000,000), in such denominations, to be numbered,
8 to bear such dates, and to bear such rate of interest as shall be
9 determined by the Legislature.

10 The proceeds of such bonds shall be used:

11 (a) Subject to such legislation as the Legislature may, from time
12 to time, enact, to provide loans and grants to school districts of the
13 state for use in purchasing and improving schoolsites, the
14 purchasing of furniture and equipment for schools, and the planning
15 and constructing, reconstructing, repairing, altering, and making
16 additions to, school buildings.

17 (b) Subject to such legislation as the Legislature may, from time
18 to time, enact, to provide loans and grants to school districts for
19 assistance in providing necessary housing and equipment for the
20 education of individuals who have exceptional needs, as that term
21 is defined in Section 56026 of the Education Code.

22 (c) To pay the expenses that may be incurred in preparing,
23 advertising, issuing, and selling the bonds, and in administering
24 and directing the expenditure of the moneys realized from the sale
25 of such bonds.

26 (d) To repay, as provided by law, any money appropriated from
27 the Investment Fund at the 1958 First Extraordinary Session for
28 state school building aid.

29 The issuance, signing, countersigning, endorsing, and selling of
30 the bonds herein provided for, and the interest coupons thereon,
31 the place and method of payment of principal and interest thereon,
32 the procedure for initiating, advertising and holding sales thereof,
33 and the performance by the several state boards and state officers
34 of their respective duties in connection therewith; and all other
35 provisions, terms, and conditions relating to the bonds, shall be as
36 provided by the Legislature.

37 The Legislature may appropriate money to be expended in
38 addition to or in lieu of the money received from the sale of the
39 bonds sold under the authority of this section. The money so
40 appropriated shall be expended pursuant to subdivision (a) of this

1 section. If the Legislature appropriates money in lieu of the money
2 received from the sale of the bonds, the total amount of bonds
3 required to be sold pursuant to this section shall be reduced by the
4 amount so appropriated.

5 The Legislature shall pass all laws, general or special, necessary
6 or convenient to carry into effect the provisions of this section.
7 Such laws may provide for the allocation of funds to school
8 districts pursuant to this section by the State Allocation Board or
9 a similar agency and in that event, notwithstanding any other
10 provision of this Constitution, Members of the Legislature who
11 are required to meet with such board shall have equal rights and
12 duties with the nonlegislative members to vote and act upon matters
13 pending before such board.

14 The Legislature shall require each district receiving an allocation
15 of money from the sale of bonds pursuant to this section for the
16 purposes prescribed in subdivision (a) of this section to repay such
17 money to the state on such terms and in such amounts as may be
18 within the ability of the district to repay.

19 The Legislature may require each district receiving an allocation
20 of money from the sale of bonds pursuant to this section for the
21 purposes prescribed in subdivision (b) of this section to repay such
22 money to the state on such terms and in such amounts as the
23 Legislature deems proper.

24 The people of the State of California in adopting this section
25 hereby declare that it is in the interests of the state and of the people
26 thereof for the state to aid school districts of the state in providing
27 necessary schoolsites and buildings for the pupils of the public
28 school system, such system being a matter of general concern
29 inasmuch as the education of the children of the state is an
30 obligation and function of the state.

31 SEC. 25. Section 16816 of the Government Code is amended
32 to read:

33 16816. Bonds of the State of California shall be prepared,
34 issued, and sold in the amount of three hundred million dollars
35 (\$300,000,000), in such denominations, to be numbered, to bear
36 such dates, and to bear such rate of interest as shall be determined
37 by the Legislature.

38 The proceeds of such bonds shall be used:

39 (a) Subject to such legislation as the Legislature may, from time
40 to time, enact, to provide loans and grants to school districts of the

1 state for use in purchasing and improving schoolsites, the
2 purchasing of furniture and equipment for schools, and the planning
3 and constructing, reconstructing, repairing, altering, and making
4 additions to, school buildings.

5 (b) Subject to such legislation as the Legislature may, from time
6 to time, enact, to provide loans and grants to school districts for
7 assistance in providing necessary housing and equipment for the
8 education of individuals who have exceptional needs, as that term
9 is defined in Section 56026 of the Education Code.

10 (c) To pay the expenses that may be incurred in preparing,
11 advertising, issuing, and selling the bonds, and in administering
12 and directing the expenditure of the moneys realized from the sale
13 of such bonds.

14 (d) To repay, as provided by law, any money appropriated from
15 the General Fund at the 1960 First Extraordinary Session for state
16 school building aid.

17 The issuance, signing, countersigning, endorsing, and selling of
18 the bonds herein provided for, and the interest coupons thereon,
19 the place and method of payment of principal and interest thereon,
20 the procedure for initiating, advertising and holding sales thereof,
21 and the performance by the several state boards and state officers
22 of their respective duties in connection therewith; and all other
23 provisions, terms, and conditions relating to the bonds, shall be as
24 provided by the Legislature.

25 The Legislature may appropriate money to be expended in
26 addition to or in lieu of the money received from the sale of the
27 bonds sold under the authority of this section. The money so
28 appropriated shall be expended pursuant to subdivision (a) of this
29 section. If the Legislature appropriates money in lieu of the money
30 received from the sale of the bonds, the total amount of bonds
31 required to be sold pursuant to this section shall be reduced by the
32 amount so appropriated.

33 The Legislature shall pass all laws, general or special, necessary
34 or convenient to carry into effect the provisions of this section.
35 Such laws may provide for the allocation of funds to school
36 districts pursuant to this section by the State Allocation Board or
37 a similar agency. Notwithstanding any other provision of this
38 Constitution, Members of the Legislature who are required to meet
39 with such board shall have equal rights and duties with the
40 nonlegislative members to vote and act upon matters pending

1 before such board concerning this section or any other section of
2 the Constitution or legislative act authorizing the allocation of
3 funds to school districts for purposes the same or substantially the
4 same as those enumerated in this section.

5 The Legislature shall require each district receiving an allocation
6 of money from the sale of bonds pursuant to this section for the
7 purposes prescribed in subdivision (a) of this section to repay such
8 money to the state on such terms and in such amounts as may be
9 within the ability of the district to repay.

10 The Legislature may require each district receiving an allocation
11 of money from the sale of bonds pursuant to this section for the
12 purposes prescribed in subdivision (b) of this section to repay such
13 money to the state on such terms and in such amounts as the
14 Legislature deems proper.

15 The people of the State of California in adopting this section
16 hereby declare that it is in the interests of the state and of the people
17 thereof for the state to aid school districts of the state in providing
18 necessary schoolsites and buildings for the pupils of the public
19 school system, such system being a matter of general concern
20 inasmuch as the education of the children of the state is an
21 obligation and function of the state.

22 SEC. 26. Section 1275.5 of the Health and Safety Code is
23 amended to read:

24 1275.5. (a) The regulations relating to the licensing of
25 hospitals, previously adopted by the State Department of Public
26 Health pursuant to Chapter 2 (commencing with Section 1250) of
27 Division 2, and in effect immediately prior to July 1, 1973, shall
28 remain in effect and shall be fully enforceable with respect to a
29 hospital required to be licensed by this chapter, until the regulations
30 are readopted, amended, or repealed by the director.

31 (b) The regulations relating to private institutions receiving or
32 caring for any mentally disordered persons, persons with
33 intellectual disabilities, and other incompetent persons, previously
34 adopted by the former Department of Mental Hygiene pursuant to
35 Chapter 1 (commencing with Section 7000) of Division 7 of the
36 Welfare and Institutions Code, and in effect immediately prior to
37 July 1, 1973, shall remain in effect and shall be fully enforceable
38 with respect to a facility, establishment, or institution for the
39 reception and care of mentally disordered persons, persons with
40 intellectual disabilities, and other incompetent persons, required

1 to be licensed by the provisions of this chapter until the regulations
2 are readopted, amended, or repealed by the director.

3 (c) All regulations relating to the licensing of psychiatric health
4 facilities previously adopted by the State Department of Health
5 Services, pursuant to authority now vested in the State Department
6 of Mental Health by Section 4080 of the Welfare and Institutions
7 Code, and in effect immediately preceding September 20, 1988,
8 shall remain in effect and shall be fully enforceable by the State
9 Department of Mental Health with respect to a facility or program
10 required to be licensed as a psychiatric health facility, until the
11 regulations are readopted, amended, or repealed by the Director
12 of Mental Health.

13 SEC. 27. Section 1337.1 of the Health and Safety Code is
14 amended to read:

15 1337.1. A skilled nursing or intermediate care facility shall
16 adopt an approved training program that meets standards
17 established by the state department. The approved training program
18 shall consist of at least the following:

19 (a) An orientation program to be given to newly employed nurse
20 assistants prior to providing direct patient care in skilled nursing
21 or intermediate care facilities.

22 (b) (1) A precertification training program consisting of at least
23 60 classroom hours of training on basic nursing skills, patient
24 safety and rights, the social and psychological problems of patients,
25 and resident abuse prevention, recognition, and reporting pursuant
26 to subdivision (e). The 60 classroom hours of training may be
27 conducted within a skilled nursing or intermediate care facility or
28 in an educational institution.

29 (2) In addition to the 60 classroom hours of training required
30 under paragraph (1), the precertification training program shall
31 consist of at least 100 hours of supervised and on-the-job training
32 clinical practice. The 100 hours may consist of normal employment
33 as a nurse assistant under the supervision of either the director of
34 nurse training or a licensed nurse qualified to provide nurse
35 assistant training who has no other assigned duties while providing
36 the training.

37 (3) At least two hours of the 60 hours of classroom training and
38 at least four hours of the 100 hours of the supervised clinical
39 training shall address the special needs of persons with
40 developmental and mental disorders, including intellectual

1 disability, Alzheimer’s disease, cerebral palsy, epilepsy, dementia,
2 Parkinson’s disease, and mental illness.

3 (4) In a precertification training program subject to this
4 subdivision, credit shall be given for the training received in an
5 approved precertification training program adopted by another
6 skilled nursing or intermediate care facility.

7 (5) This subdivision shall not apply to a skilled nursing or
8 intermediate care facility that demonstrates to the state department
9 that it employs only nurse assistants with a valid certification.

10 (c) Continuing in-service training to assure continuing
11 competency in existing and new nursing skills.

12 (d) Each facility shall consider including training regarding the
13 characteristics and method of assessment and treatment of acquired
14 immunodeficiency syndrome (AIDS).

15 (e) (1) The approved training program shall include, within the
16 60 hours of classroom training, a minimum of six hours of
17 instruction on preventing, recognizing, and reporting instances of
18 resident abuse utilizing those courses developed pursuant to Section
19 13823.93 of the Penal Code, and a minimum of one hour of
20 instruction on preventing, recognizing, and reporting residents’
21 rights violations.

22 (2) A minimum of four hours of instruction on preventing,
23 recognizing, and reporting instances of resident abuse, including
24 instruction on preventing, recognizing, and reporting residents’
25 rights violations, shall be included within the total minimum hours
26 of continuing education or in-service training required and in effect
27 for certified nursing assistants.

28 SEC. 28. Section 1337.3 of the Health and Safety Code is
29 amended to read:

30 1337.3. (a) The department shall prepare and maintain a list
31 of approved training programs for nurse assistant certification.
32 The list shall include training programs conducted by skilled
33 nursing or intermediate care facilities, as well as local agencies
34 and education programs. In addition, the list shall include
35 information on whether a training center is currently training nurse
36 assistants, their competency test pass rates, and the number of
37 nurse assistants they have trained. Clinical portions of the training
38 programs may be obtained as on-the-job training, supervised by a
39 qualified director of staff development or licensed nurse.

1 (b) It shall be the duty of the department to inspect a
2 representative sample of training programs. The department shall
3 protect consumers and students in any training program against
4 fraud, misrepresentation, or other practices that may result in
5 improper or excessive payment of funds paid for training programs.
6 In evaluating a training center's training program, the department
7 shall examine each training center's trainees' competency test
8 passage rate, and require each program to maintain an average 60
9 percent test score passage rate to maintain its participation in the
10 program. The average test score passage rate shall be calculated
11 over a two-year period. If the department determines that a training
12 program is not complying with regulations or is not meeting the
13 competency passage rate requirements, notice thereof in writing
14 shall be immediately given to the program. If the program has not
15 been brought into compliance within a reasonable time, the
16 program may be removed from the approved list and notice thereof
17 in writing given to it. Programs removed under this article shall
18 be afforded an opportunity to request reinstatement of program
19 approval at any time. The department's district offices shall inspect
20 facility-based centers as part of their annual survey.

21 (c) Notwithstanding Section 1337.1, the approved training
22 program shall consist of at least the following:

23 (1) A 16-hour orientation program to be given to newly
24 employed nurse assistants prior to providing direct patient care,
25 and consistent with federal training requirements for facilities
26 participating in the Medicare or Medicaid Programs.

27 (2) (A) A certification training program consisting of at least
28 60 classroom hours of training on basic nursing skills, patient
29 safety and rights, the social and psychological problems of patients,
30 and elder abuse recognition and reporting pursuant to subdivision
31 (e) of Section 1337.1. The 60 classroom hours of training may be
32 conducted within a skilled nursing facility, an intermediate care
33 facility, or an educational institution.

34 (B) In addition to the 60 classroom hours of training required
35 under subparagraph (A), the certification program shall also consist
36 of 100 hours of supervised and on-the-job training clinical practice.
37 The 100 hours may consist of normal employment as a nurse
38 assistant under the supervision of either the director of staff
39 development or a licensed nurse qualified to provide nurse assistant

1 training who has no other assigned duties while providing the
2 training.

3 (3) At least two hours of the 60 hours of classroom training and
4 at least four hours of the 100 hours of the supervised clinical
5 training shall address the special needs of persons with
6 developmental and mental disorders, including intellectual
7 disability, Alzheimer's disease, cerebral palsy, epilepsy, dementia,
8 Parkinson's disease, and mental illness.

9 (d) The department, in consultation with the State Department
10 of Education and other appropriate organizations, shall develop
11 criteria for approving training programs, that includes program
12 content for orientation, training, inservice and the examination for
13 testing knowledge and skills related to basic patient care services
14 and shall develop a plan that identifies and encourages career
15 ladder opportunities for certified nurse assistants. This group shall
16 also recommend, and the department shall adopt, regulation
17 changes necessary to provide for patient care when facilities utilize
18 noncertified nurse assistants who are performing direct patient
19 care. The requirements of this subdivision shall be established by
20 January 1, 1989.

21 (e) On or before January 1, 2004, the department, in consultation
22 with the State Department of Education, the American Red Cross,
23 and other appropriate organizations, shall do the following:

24 (1) Review the current examination for approved training
25 programs for certified nurse assistants to ensure the accurate
26 assessment of whether a nurse assistant has obtained the required
27 knowledge and skills related to basic patient care services.

28 (2) Develop a plan that identifies and encourages career ladder
29 opportunities for certified nurse assistants, including the application
30 of on-the-job post-certification hours to educational credits.

31 (f) A skilled nursing or intermediate care facility shall determine
32 the number of specific clinical hours within each module identified
33 by the state department required to meet the requirements of
34 subdivision (d), subject to subdivisions (b) and (c). The facility
35 shall consider the specific hours recommended by the state
36 department when adopting the certification training program
37 required by this chapter.

38 (g) This article shall not apply to a program conducted by any
39 church or denomination for the purpose of training the adherents

1 of the church or denomination in the care of the sick in accordance
2 with its religious tenets.

3 (h) The Chancellor of the California Community Colleges shall
4 provide to the state department a standard process for approval of
5 college credit. The state department shall make this information
6 available to all training programs in the state.

7 SEC. 29. Section 13113 of the Health and Safety Code is
8 amended to read:

9 13113. (a) Except as otherwise provided in this section, a
10 person, firm, or corporation shall not establish, maintain, or operate
11 a hospital, children's home, children's nursery, or institution, home
12 or institution for the care of aged or senile persons, sanitarium or
13 institution for insane persons or persons with intellectual
14 disabilities, or nursing or convalescent home, wherein more than
15 six guests or patients are housed or cared for on a 24-hour-per-day
16 basis unless there is installed and maintained in an operable
17 condition in every building, or portion thereof where patients or
18 guests are housed, an automatic sprinkler system approved by the
19 State Fire Marshal.

20 (b) This section does not apply to homes or institutions for the
21 24-hour-per-day care of ambulatory children if all of the following
22 conditions are satisfied:

23 (1) The buildings, or portions thereof where children are housed,
24 are not more than two stories in height and are constructed and
25 maintained in accordance with regulations adopted by the State
26 Fire Marshal pursuant to Section 13143 and building standards
27 published in the California Building Standards Code.

28 (2) The buildings, or portions thereof housing more than six
29 children, shall have installed and maintained in an operable
30 condition therein a fire alarm system of a type approved by the
31 State Fire Marshal. The system shall be activated by detectors
32 responding to invisible products of combustion other than heat.

33 (3) The buildings or portions thereof do not house mentally ill
34 children or children with intellectual disabilities.

35 (c) This section does not apply to any one-story building or
36 structure of an institution or home for the care of the aged providing
37 24-hour-per-day care if the building or structure is used or intended
38 to be used for the housing of no more than six ambulatory aged
39 persons. However, the buildings or institutions shall have installed
40 and maintained in an operable condition therein a fire alarm system

1 of a type approved by the State Fire Marshal. The system shall be
2 activated by detectors responding to products of combustion other
3 than heat.

4 (d) This section does not apply to occupancies, or any alterations
5 thereto, located in type I construction, as defined by the State Fire
6 Marshal, under construction or in existence on March 4, 1972.

7 (e) “Under construction,” as used in this section, means that
8 actual work shall have been performed on the construction site
9 and shall not be construed to mean that the hospital, home, nursery,
10 institution, sanitarium, or a portion thereof, is in the planning stage.

11 SEC. 30. Section 51312 of the Health and Safety Code is
12 amended to read:

13 51312. (a) The primary purpose of this chapter is to provide
14 an additional method of financing special needs housing.

15 (b) (1) For purposes of this chapter, “special needs housing”
16 means any housing, including supportive housing, intended to
17 benefit, in whole or in part, persons identified as having special
18 needs relating to any of the following:

19 (A) Mental health.

20 (B) Physical disabilities.

21 (C) Developmental disabilities, including, but not limited to,
22 intellectual disability, cerebral palsy, epilepsy, and autism.

23 (D) The risk of homelessness.

24 (2) Special needs housing shall also mean housing intended to
25 meet the housing needs of persons eligible for mental health
26 services funded in whole or in part by the Mental Health Services
27 Fund, created by Section 5890 of the Welfare and Institutions
28 Code.

29 SEC. 31. Section 110403 of the Health and Safety Code is
30 amended to read:

31 110403. Except as otherwise provided in Section 110405, it is
32 unlawful for a person to advertise a drug or device represented to
33 have an effect in any of the following conditions, disorders, or
34 diseases:

35 (a) Appendicitis.

36 (b) Blood disorders.

37 (c) Bone or joint diseases.

38 (d) Kidney diseases or disorders.

39 (e) Cancer.

40 (f) Carbuncles.

- 1 (g) Diseases, disorders, or conditions of the eye.
- 2 (h) Diabetes.
- 3 (i) Diphtheria.
- 4 (j) Gallbladder diseases or disorders.
- 5 (k) Heart and vascular diseases.
- 6 (l) High blood pressure.
- 7 (m) Diseases or disorders of the ear or auditory apparatus,
- 8 including hearing loss and deafness.
- 9 (n) Measles.
- 10 (o) Meningitis.
- 11 (p) Mental disease or intellectual disability.
- 12 (q) Paralysis.
- 13 (r) Pneumonia.
- 14 (s) Poliomyelitis.
- 15 (t) Prostate gland disorders.
- 16 (u) Conditions of the scalp, affecting hair loss, or baldness.
- 17 (v) Alcoholism.
- 18 (w) Periodontal diseases.
- 19 (x) Epilepsy.
- 20 (y) Goiter.
- 21 (z) Endocrine disorders.
- 22 (aa) Sexual impotence.
- 23 (ab) Sinus infections.
- 24 (ac) Encephalitis.
- 25 (ad) Tumors.
- 26 (ae) Venereal diseases.
- 27 (af) Tuberculosis.
- 28 (ag) Ulcers of the stomach.
- 29 (ah) Varicose ulcers.
- 30 (ai) Scarlet fever.
- 31 (aj) Typhoid fever.
- 32 (ak) Whooping cough.
- 33 (al) Acquired immunodeficiency syndrome (AIDS).
- 34 (am) AIDS-related complex (ARC).
- 35 (an) Diseases, disorders, or conditions of the immune system.
- 36 SEC. 32. Section 123935 of the Health and Safety Code is
- 37 amended to read:
- 38 123935. A handicapped child shall not be denied services
- 39 pursuant to this article because he or she has an intellectual
- 40 disability.

1 SEC. 33. Section 125000 of the Health and Safety Code is
2 amended to read:

3 125000. (a) It is the policy of the State of California to make
4 every effort to detect, as early as possible, phenylketonuria and
5 other preventable heritable or congenital disorders leading to
6 intellectual disability or physical defects.

7 The department shall establish a genetic disease unit, that shall
8 coordinate all programs of the department in the area of genetic
9 disease. The unit shall promote a statewide program of information,
10 testing, and counseling services and shall have the responsibility
11 of designating tests and regulations to be used in executing this
12 program.

13 The information, tests, and counseling for children shall be in
14 accordance with accepted medical practices and shall be
15 administered to each child born in California once the department
16 has established appropriate regulations and testing methods. The
17 information, tests, and counseling for pregnant women shall be in
18 accordance with accepted medical practices and shall be offered
19 to each pregnant woman in California once the department has
20 established appropriate regulations and testing methods. These
21 regulations shall follow the standards and principles specified in
22 Section 124980. The department may provide laboratory testing
23 facilities or contract with any laboratory that it deems qualified to
24 conduct tests required under this section. However, notwithstanding
25 former Section 125005, provision of laboratory testing facilities
26 by the department shall be contingent upon the provision of funding
27 therefor by specific appropriation to the Genetic Disease Testing
28 Fund enacted by the Legislature. If moneys appropriated for
29 purposes of this section are not authorized for expenditure to
30 provide laboratory facilities, the department may nevertheless
31 contract to provide laboratory testing services pursuant to this
32 section and shall perform laboratory services, including, but not
33 limited to, quality control, confirmatory, and emergency testing,
34 necessary to ensure the objectives of this program.

35 (b) The department shall charge a fee for any tests performed
36 pursuant to this section. The amount of the fee shall be established
37 and periodically adjusted by the director in order to meet the costs
38 of this section.

39 (c) The department shall inform all hospitals or physicians and
40 surgeons, or both, of required regulations and tests and may alter

1 or withdraw any of these requirements whenever sound medical
2 practice so indicates. To the extent practicable, the department
3 shall provide notice to hospitals and other payers in advance of an
4 increase in the fees charged for the program.

5 (d) This section shall not apply if a parent or guardian of the
6 newborn child objects to a test on the ground that the test conflicts
7 with his or her religious beliefs or practices.

8 (e) The genetic disease unit is authorized to make grants or
9 contracts or payments to vendors approved by the department for
10 all of the following:

11 (1) Testing and counseling services.

12 (2) Demonstration projects to determine the desirability and
13 feasibility of additional tests or new genetic services.

14 (3) To initiate the development of genetic services in areas of
15 need.

16 (4) To purchase or provide genetic services from any sums as
17 are appropriated for this purpose.

18 (f) The genetic disease unit shall evaluate and prepare
19 recommendations on the implementation of tests for the detection
20 of hereditary and congenital diseases, including, but not limited
21 to, biotinidase deficiency and cystic fibrosis. The genetic disease
22 unit shall also evaluate and prepare recommendations on the
23 availability and effectiveness of preventative followup
24 interventions, including the use of specialized medically necessary
25 dietary products.

26 It is the intent of the Legislature that funds for the support of the
27 evaluations and recommendations required pursuant to this
28 subdivision, and for the activities authorized pursuant to
29 subdivision (e), shall be provided in the annual Budget Act
30 appropriation from the Genetic Disease Testing Fund.

31 (g) Health care providers that contract with a prepaid group
32 practice health care service plan that annually has at least 20,000
33 births among its membership, may provide, without contracting
34 with the department, any or all of the testing and counseling
35 services required to be provided under this section or the
36 regulations adopted pursuant thereto, if the services meet the
37 quality standards and adhere to the regulations established by the
38 department and the plan pays that portion of a fee established under
39 this section that is directly attributable to the department's cost of
40 administering the testing or counseling service and to any required

1 testing or counseling services provided by the state for plan
2 members. The payment by the plan, as provided in this subdivision,
3 shall be deemed to fulfill any obligation the provider or the
4 provider's patient may have to the department to pay a fee in
5 connection with the testing or counseling service.

6 (h) The department may appoint experts in the area of genetic
7 screening, including, but not limited to, cytogenetics, molecular
8 biology, prenatal, specimen collection, and ultrasound to provide
9 expert advice and opinion on the interpretation and enforcement
10 of regulations adopted pursuant to this section. These experts shall
11 be designated agents of the state with respect to their assignments.
12 These experts shall receive no salary, but shall be reimbursed for
13 expenses associated with the purposes of this section. All expenses
14 of the experts for the purposes of this section shall be paid from
15 the Genetic Disease Testing Fund.

16 SEC. 34. Section 127260 of the Health and Safety Code is
17 amended to read:

18 127260. (a) The Advisory Health Council, upon review of a
19 decision of the department, shall do one of the following:

20 (1) Enter an order affirming the decision of the department if it
21 finds as to the respective basis of review that:

22 (A) The application was processed and the hearing conducted
23 was consistent with this chapter, or that any inconsistency with
24 respect thereto was immaterial to the decision of the department.

25 (B) There is substantial evidence in the record supporting the
26 department's decision.

27 (C) The department has not acted in an arbitrary and capricious
28 manner.

29 (2) Enter an order remanding the decision of the department if
30 it finds as to the respective basis of review that:

31 (A) The application was not processed or the hearing conducted
32 was not consistent with this chapter, and this inconsistency was
33 material to the decision rendered by the department.

34 (B) There is no substantial evidence in the record supporting
35 the decision.

36 (C) The department has acted in an arbitrary or capricious
37 manner.

38 (3) Enter an order reversing the decision of the department if it
39 finds as to the respective basis of review that:

1 (A) The application was not processed or the hearing conducted
2 was not consistent with the provisions of this chapter, and this
3 inconsistency was material to the decision rendered by the
4 department.

5 (B) There is no substantial evidence in the record supporting
6 the decision.

7 (C) The department has acted in an arbitrary or capricious
8 manner.

9 (b) Orders of the council authorized by this section shall be
10 made only upon the affirmative vote of a majority of the council,
11 with at least six of the affirmative votes cast by the following
12 members:

13 (1) Representative of consumers of services for persons with
14 intellectual disabilities appointed by the Governor.

15 (2) Representative of consumers of mental health services
16 appointed by the Governor.

17 (3) Representative of local government appointed by the
18 Governor.

19 (4) Representatives of the general consumer public appointed
20 by the Governor, Senate Committee on Rules, or Speaker of the
21 Assembly.

22 (5) Members of the Legislature appointed by the Senate
23 Committee on Rules or Speaker of the Assembly.

24 SEC. 35. Section 129395 of the Health and Safety Code is
25 amended to read:

26 129395. "Hospital" includes hospitals for the chronically ill
27 and impaired, public health centers, community mental health
28 centers, facilities for persons with intellectual disabilities, and
29 general, tuberculosis, mental and other types of hospitals and
30 related facilities, including laboratories, outpatient departments,
31 nurses' home and training facilities, and central service facilities
32 operated in connection with hospitals, diagnostic or treatment
33 centers, nursing homes, and rehabilitation facilities, but except for
34 facilities for persons with intellectual disabilities does not include
35 any institution furnishing primarily domiciliary care.

36 SEC. 36. Section 10118 of the Insurance Code is amended to
37 read:

38 10118. A policy of disability insurance delivered or issued for
39 delivery in this state more than 120 days after the effective date
40 of this section, that provides that coverage of a dependent child

1 shall terminate upon attainment of the limiting age for dependent
2 children specified in the policy or contract, shall also provide in
3 substance that attainment of the limiting age shall not operate to
4 terminate the coverage of the child while the child is and continues
5 to be both (a) incapable of self-sustaining employment by reason
6 of intellectual disability or physical handicap and (b) chiefly
7 dependent upon the insured for support and maintenance, provided
8 proof of the incapacity and dependency is furnished to the insurer
9 by the insured within 31 days of the child's attainment of the
10 limiting age and subsequently as may be required by the insurer,
11 but not more frequently than annually after the two-year period
12 following the child's attainment of the limiting age.

13 Disability policies currently approved by the commissioner that
14 are delivered or issued for delivery more than 120 days after the
15 effective date of this section shall be automatically construed to
16 be in compliance with this section and need not be refiled or
17 reprinted. Disability policies submitted to the commissioner for
18 approval on and after the effective date of this section shall contain
19 provisions in compliance with this section.

20 SEC. 37. Section 10124 of the Insurance Code is amended to
21 read:

22 10124. (a) A self-insured employee welfare benefit plan
23 delivered or issued for delivery in this state more than 120 days
24 after the effective date of this section, that provides that coverage
25 of a dependent child of an employee shall terminate upon
26 attainment of the limiting age for dependent children specified in
27 the policy or contract, shall also provide in substance that
28 attainment of the limiting age shall not operate to terminate the
29 coverage of the child while the child is and continues to be both
30 (a) incapable of self-sustaining employment by reason of
31 intellectual disability or physical handicap and (b) chiefly
32 dependent upon the employee for support and maintenance,
33 provided proof of the incapacity and dependency is furnished to
34 the employer or employee organization providing the plan or
35 program of benefits by the employee within 31 days of the child's
36 attainment of the limiting age and subsequently as may be required
37 by such employer or employee organization, but not more
38 frequently than annually after the two-year period following the
39 child's attainment of the limiting age.

1 (b) As used in this section, “self-insured employee welfare
2 benefit plan” means a plan or program of benefits provided by an
3 employer or an employee organization, or both, for the purpose
4 of providing hospital, medical, surgical, nursing, or dental services,
5 or indemnification for the costs incurred for these services, to the
6 employer’s employees or their dependents.

7 SEC. 38. Section 10203.4 of the Insurance Code is amended
8 to read:

9 10203.4. (a) Insurance under a group life insurance policy
10 issued pursuant to Sections 10202, 10202.8, 10203, 10203.1, and
11 10203.7 may be extended to insure the dependents, or any class
12 or classes thereof, of each insured employee who so elects, in
13 amounts in accordance with some plan that precludes individual
14 selection and that shall not be in excess of 100 percent of the
15 insurance on the life of the insured employee.

16 (b) “Dependent” includes the member’s spouse and all children
17 from birth until 26 years of age, or a child 26 years of age or older
18 who is both incapable of self-sustaining employment by reason of
19 intellectual disability or physical handicap and chiefly dependent
20 upon the employee for support and maintenance if proof of the
21 incapacity and dependency is furnished to the insurer by the
22 employee within 31 days of the child’s attainment of the limiting
23 age and subsequently as may be required by the insurer, but not
24 more frequently than annually after the two-year period following
25 the child’s attainment of the limiting age.

26 (c) The premiums for the insurance on the dependents may be
27 paid by the employer, the employee, or the employer and the
28 employee jointly.

29 SEC. 39. Section 1001.20 of the Penal Code is amended to
30 read:

31 1001.20. As used in this chapter:

32 (a) “Cognitive Developmental Disability” means any of the
33 following:

34 (1) “Intellectual disability” means a condition of significantly
35 subaverage general intellectual functioning existing concurrently
36 with deficits in adaptive behavior and manifested during the
37 developmental period.

38 (2) “Autism” means a diagnosed condition of markedly
39 abnormal or impaired development in social interaction, in

1 communication, or in both, with a markedly restricted repertoire
2 of activity and interests.

3 (3) Disabling conditions found to be closely related to ~~mental~~
4 ~~retardation~~ *intellectual disability* or autism, or that require treatment
5 similar to that required for individuals with intellectual disability
6 or autism, and that would qualify an individual for services
7 provided under the Lanterman Developmental Disabilities Services
8 Act.

9 (b) “Diversion-related treatment and habilitation” means, but
10 is not limited to, specialized services or special adaptations of
11 generic services, directed towards the alleviation of cognitive
12 developmental disability or towards social, personal, physical, or
13 economic habilitation or rehabilitation of an individual with a
14 cognitive developmental disability, and includes, but is not limited
15 to, diagnosis, evaluation, treatment, personal care, day care,
16 domiciliary care, special living arrangements, physical,
17 occupational, and speech therapy, training, education, sheltered
18 employment, mental health services, recreation, counseling of the
19 individual with this disability and of his or her family, protective
20 and other social and socio-legal services, information and referral
21 services, follow-along services, and transportation services
22 necessary to assure delivery of services to persons with cognitive
23 developmental disabilities.

24 (c) “Regional center” means a regional center for the
25 developmentally disabled established under the Lanterman
26 Developmental Disabilities Services Act that is organized as a
27 private nonprofit community agency to plan, purchase, and
28 coordinate the delivery of services that cannot be provided by state
29 agencies to developmentally disabled persons residing in a
30 particular geographic catchment area, and that is licensed and
31 funded by the State Department of Developmental Services.

32 (d) “Director of a regional center” means the executive director
33 of a regional center for the developmentally disabled or his or her
34 designee.

35 (e) “Agency” means the prosecutor, the probation department,
36 and the regional center involved in a particular defendant’s case.

37 (f) “Dual agency diversion” means a treatment and habilitation
38 program developed with court approval by the regional center,
39 administered jointly by the regional center and by the probation
40 department, that is individually tailored to the needs of the

1 defendant as derived from the defendant’s individual program plan
2 pursuant to Section 4646 of the Welfare and Institutions Code,
3 and includes, but is not limited to, treatment specifically addressed
4 to the criminal offense charged, for a specified period of time as
5 prescribed in Section 1001.28.

6 (g) “Single agency diversion” means a treatment and habilitation
7 program developed with court approval by the regional center,
8 administered solely by the regional center without involvement
9 by the probation department, that is individually tailored to the
10 needs of the defendant as derived from the defendant’s individual
11 program plan pursuant to Section 4646 of the Welfare and
12 Institutions Code, and includes, but is not limited to, treatment
13 specifically addressed to the criminal offense charged, for a
14 specified period of time as prescribed in Section 1001.28.

15 SEC. 40. Section 1346 of the Penal Code is amended to read:

16 1346. (a) When a defendant has been charged with a violation
17 of Section 220, 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286,
18 288, 288a, 288.5, 289, or 647.6, and the victim either is a person
19 15 years of age or less or is developmentally disabled as a result
20 of intellectual disability, as specified in subdivision (a) of Section
21 4512 of the Welfare and Institutions Code, the people may apply
22 for an order that the victim’s testimony at the preliminary hearing,
23 in addition to being stenographically recorded, be recorded and
24 preserved on videotape.

25 (b) The application for the order shall be in writing and made
26 three days prior to the preliminary hearing.

27 (c) Upon timely receipt of the application, the magistrate shall
28 order that the testimony of the victim given at the preliminary
29 hearing be taken and preserved on videotape. The videotape shall
30 be transmitted to the clerk of the court in which the action is
31 pending.

32 (d) If at the time of trial the court finds that further testimony
33 would cause the victim emotional trauma so that the victim is
34 medically unavailable or otherwise unavailable within the meaning
35 of Section 240 of the Evidence Code, the court may admit the
36 videotape of the victim’s testimony at the preliminary hearing as
37 former testimony under Section 1291 of the Evidence Code.

38 (e) A videotape that is taken pursuant to this section is subject
39 to a protective order of the court for the purpose of protecting the

1 privacy of the victim. This subdivision does not affect the
2 provisions of subdivision (b) of Section 868.7.

3 (f) A videotape made pursuant to this section shall be made
4 available to the prosecuting attorney, the defendant, and his or her
5 attorney for viewing during ordinary business hours. A videotape
6 that is made available pursuant to this section is subject to a
7 protective order of the court for the purpose of protecting the
8 privacy of the victim.

9 (g) The tape shall be destroyed after five years have elapsed
10 from the date of entry of judgment; provided, however, that if an
11 appeal is filed, the tape shall not be destroyed until a final judgment
12 on appeal has been rendered.

13 SEC. 41. Section 1370.1 of the Penal Code is amended to read:

14 1370.1. (a) (1) (A) If the defendant is found mentally
15 competent, the criminal process shall resume, the trial on the
16 offense charged shall proceed, and judgment may be pronounced.

17 (B) If the defendant is found mentally incompetent and is
18 developmentally disabled, the trial or judgment shall be suspended
19 until the defendant becomes mentally competent.

20 (i) Except as provided in clause (ii) or (iii), the court shall
21 consider a recommendation for placement, which recommendation
22 shall be made to the court by the director of a regional center or
23 designee. In the meantime, the court shall order that the mentally
24 incompetent defendant be delivered by the sheriff or other person
25 designated by the court to a state hospital or developmental center
26 for the care and treatment of the developmentally disabled or any
27 other available residential facility approved by the director of a
28 regional center for the developmentally disabled established under
29 Division 4.5 (commencing with Section 4500) of the Welfare and
30 Institutions Code as will promote the defendant's speedy attainment
31 of mental competence, or be placed on outpatient status pursuant
32 to the provisions of Section 1370.4 and Title 15 (commencing with
33 Section 1600) of Part 2.

34 (ii) However, if the action against the defendant who has been
35 found mentally incompetent is on a complaint charging a felony
36 offense specified in Section 290, the prosecutor shall determine
37 whether the defendant previously has been found mentally
38 incompetent to stand trial pursuant to this chapter on a charge of
39 a Section 290 offense, or whether the defendant is currently the
40 subject of a pending Section 1368 proceeding arising out of a

1 charge of a Section 290 offense. If either determination is made,
2 the prosecutor shall so notify the court and defendant in writing.
3 After this notification, and opportunity for hearing, the court shall
4 order that the defendant be delivered by the sheriff to a state
5 hospital or other secure treatment facility for the care and treatment
6 of the developmentally disabled unless the court makes specific
7 findings on the record that an alternative placement would provide
8 more appropriate treatment for the defendant and would not pose
9 a danger to the health and safety of others.

10 (iii) If the action against the defendant who has been found
11 mentally incompetent is on a complaint charging a felony offense
12 specified in Section 290 and the defendant has been denied bail
13 pursuant to subdivision (b) of Section 12 of Article I of the
14 California Constitution because the court has found, based upon
15 clear and convincing evidence, a substantial likelihood that the
16 person’s release would result in great bodily harm to others, the
17 court shall order that the defendant be delivered by the sheriff to
18 a state hospital for the care and treatment of the developmentally
19 disabled unless the court makes specific findings on the record
20 that an alternative placement would provide more appropriate
21 treatment for the defendant and would not pose a danger to the
22 health and safety of others.

23 (iv) The clerk of the court shall notify the Department of Justice
24 in writing of any finding of mental incompetence with respect to
25 a defendant who is subject to clause (ii) or (iii) for inclusion in his
26 or her state summary criminal history information.

27 (C) Upon becoming competent, the court shall order that the
28 defendant be returned to the committing court pursuant to the
29 procedures set forth in paragraph (2) of subdivision (a) of Section
30 1372 or by another person designated by the court. The court shall
31 further determine conditions under which the person may be absent
32 from the placement for medical treatment, social visits, and other
33 similar activities. Required levels of supervision and security for
34 these activities shall be specified.

35 (D) The court shall transmit a copy of its order to the regional
36 center director or designee and to the Director of Developmental
37 Services.

38 (E) A defendant charged with a violent felony may not be placed
39 in a facility or delivered to a state hospital, developmental center,
40 or residential facility pursuant to this subdivision unless the facility,

1 state hospital, developmental center, or residential facility has a
2 secured perimeter or a locked and controlled treatment facility,
3 and the judge determines that the public safety will be protected.

4 (F) For purposes of this paragraph, “violent felony” means an
5 offense specified in subdivision (c) of Section 667.5.

6 (G) A defendant charged with a violent felony may be placed
7 on outpatient status, as specified in ~~Sections~~ *Section* 1370.4 or
8 1600, only if the court finds that the placement will not pose a
9 danger to the health or safety of others.

10 (H) As used in this section, “developmental disability” means
11 a disability that originates before an individual attains 18 years of
12 age, continues, or can be expected to continue, indefinitely and
13 constitutes a substantial handicap for the individual, and shall not
14 include other handicapping conditions that are solely physical in
15 nature. As defined by the Director of Developmental Services, in
16 consultation with the Superintendent of Public Instruction, this
17 term shall include intellectual disability, cerebral palsy, epilepsy,
18 and autism. This term shall also include handicapping conditions
19 found to be closely related to intellectual disability or to require
20 treatment similar to that required for individuals with an intellectual
21 disability, but shall not include other handicapping conditions that
22 are solely physical in nature.

23 (2) Prior to making the order directing the defendant be confined
24 in a state hospital, developmental center, or other residential facility
25 or be placed on outpatient status, the court shall order the regional
26 center director or designee to evaluate the defendant and to submit
27 to the court within 15 judicial days of the order a written
28 recommendation as to whether the defendant should be committed
29 to a state hospital or developmental center or to any other available
30 residential facility approved by the regional center director. A
31 person shall not be admitted to a state hospital, developmental
32 center, or other residential facility or accepted for outpatient status
33 under Section 1370.4 without having been evaluated by the regional
34 center director or designee.

35 (3) When the court orders that the defendant be confined in a
36 state hospital or other secure treatment facility pursuant to clause
37 (ii) or (iii) of subparagraph (B) of paragraph (1), the court shall
38 provide copies of the following documents which shall be taken
39 with the defendant to the state hospital or other secure treatment
40 facility where the defendant is to be confined:

1 (A) State summary criminal history information.
2 (B) Any arrest reports prepared by the police department or
3 other law enforcement agency.

4 (C) Records of a finding of mental incompetence pursuant to
5 this chapter arising out of a complaint charging a felony offense
6 specified in Section 290 or a pending Section 1368 proceeding
7 arising out of a charge of a Section 290 offense.

8 (4) When the defendant is committed to a residential facility
9 pursuant to clause (i) of subparagraph (B) of paragraph (1) or the
10 court makes the findings specified in clause (ii) or (iii) of
11 subparagraph (B) of paragraph (1) to assign the defendant to a
12 facility other than a state hospital or other secure treatment facility,
13 the court shall order that notice be given to the appropriate law
14 enforcement agency or agencies having local jurisdiction at the
15 site of the placement facility of a finding of mental incompetence
16 pursuant to this chapter arising out of a charge of a Section 290
17 offense.

18 (5) (A) If the defendant is committed or transferred to a state
19 hospital or developmental center pursuant to this section, the court
20 may, upon receiving the written recommendation of the executive
21 director of the state hospital or developmental center and the
22 regional center director that the defendant be transferred to a
23 residential facility approved by the regional center director, order
24 the defendant transferred to that facility. If the defendant is
25 committed or transferred to a residential facility approved by the
26 regional center director, the court may, upon receiving the written
27 recommendation of the regional center director, transfer the
28 defendant to a state hospital or developmental center or to another
29 residential facility approved by the regional center director.

30 In the event of dismissal of the criminal charges before the
31 defendant recovers competence, the person shall be subject to the
32 applicable provisions of the Lanterman-Petris-Short Act (Part 1
33 commencing with Section 5000) of Division 5 of the Welfare and
34 Institutions Code) or to commitment or detention pursuant to a
35 petition filed pursuant to Section 6502 of the Welfare and
36 Institutions Code.

37 The defendant or prosecuting attorney may contest either kind
38 of order of transfer by filing a petition with the court for a hearing,
39 which shall be held if the court determines that sufficient grounds
40 exist. At the hearing, the prosecuting attorney or the defendant

1 may present evidence bearing on the order of transfer. The court
2 shall use the same standards as used in conducting probation
3 revocation hearings pursuant to Section 1203.2.

4 Prior to making an order for transfer under this section, the court
5 shall notify the defendant, the attorney of record for the defendant,
6 the prosecuting attorney, and the regional center director or
7 designee.

8 (B) If the defendant is committed to a state hospital or secure
9 treatment facility pursuant to clause (ii) or (iii) of subparagraph
10 (B) of paragraph (1) and is subsequently transferred to another
11 facility, copies of the documents specified in paragraph (3) shall
12 be taken with the defendant to the new facility. The transferring
13 facility shall also notify the appropriate law enforcement agency
14 or agencies having local jurisdiction at the site of the new facility
15 that the defendant is a person subject to clause (ii) or (iii) of
16 subparagraph (B) of paragraph (1).

17 (b) (1) Within 90 days of admission of a person committed
18 pursuant to subdivision (a), the executive director or designee of
19 the state hospital, developmental center, or other facility to which
20 the defendant is committed, or the outpatient supervisor where the
21 defendant is placed on outpatient status, shall make a written report
22 to the committing court and the regional center director or a
23 designee concerning the defendant's progress toward becoming
24 mentally competent. If the defendant has not become mentally
25 competent, but the report discloses a substantial likelihood the
26 defendant will become mentally competent within the next 90
27 days, the court may order that the defendant shall remain in the
28 state hospital, developmental center, or other facility or on
29 outpatient status for that period of time. Within 150 days of an
30 admission made pursuant to subdivision (a) or if the defendant
31 becomes mentally competent, the executive director or designee
32 of the hospital or developmental center or person in charge of the
33 facility or the outpatient supervisor shall report to the court and
34 the regional center director or his or her designee regarding the
35 defendant's progress toward becoming mentally competent. The
36 court shall provide to the prosecutor and defense counsel copies
37 of all reports under this section. If the report indicates that there
38 is no substantial likelihood that the defendant has become mentally
39 competent, the committing court shall order the defendant to be
40 returned to the court for proceedings pursuant to paragraph (2) of

1 subdivision (c). The court shall transmit a copy of its order to the
2 regional center director or designee and to the executive director
3 of the developmental center.

4 (2) A defendant who has been committed or has been on
5 outpatient status for 18 months, and is still hospitalized or on
6 outpatient status shall be returned to the committing court where
7 a hearing shall be held pursuant to the procedures set forth in
8 Section 1369. The court shall transmit a copy of its order to the
9 regional center director or designee and the executive director of
10 the developmental center.

11 (3) If it is determined by the court that no treatment for the
12 defendant's mental impairment is being conducted, the defendant
13 shall be returned to the committing court. A copy of this order
14 shall be sent to the regional center director or designee and to the
15 executive director of the developmental center.

16 (4) At each review by the court specified in this subdivision,
17 the court shall determine if the security level of housing and
18 treatment is appropriate and may make an order in accordance
19 with its determination.

20 (c) (1) (A) At the end of three years from the date of
21 commitment or a period of commitment equal to the maximum
22 term of imprisonment provided by law for the most serious offense
23 charged in the information, indictment, or misdemeanor complaint,
24 whichever is shorter, a defendant who has not become mentally
25 competent shall be returned to the committing court.

26 (B) The court shall notify the regional center director or designee
27 and the executive director of the developmental center of that
28 return and of any resulting court orders.

29 (2) In the event of dismissal of the criminal charges before the
30 defendant becomes mentally competent, the defendant shall be
31 subject to the applicable provisions of the Lanterman-Petris-Short
32 Act (Part 1 (commencing with Section 5000) of Division 5 of the
33 Welfare and Institutions Code), or to commitment and detention
34 pursuant to a petition filed pursuant to Section 6502 of the Welfare
35 and Institutions Code. If it is found that the person is not subject
36 to commitment or detention pursuant to the applicable provision
37 of the Lanterman-Petris-Short Act (Part 1 (commencing with
38 Section 5000) of Division 5 of the Welfare and Institutions Code)
39 or to commitment or detention pursuant to a petition filed pursuant
40 to Section 6502 of the Welfare and Institutions Code, the individual

1 shall not be subject to further confinement pursuant to this article
2 and the criminal action remains subject to dismissal pursuant to
3 Section 1385. The court shall notify the regional center director
4 and the executive director of the developmental center of any
5 dismissal.

6 (d) Notwithstanding any other provision of this section, the
7 criminal action remains subject to dismissal pursuant to Section
8 1385. If at any time prior to the maximum period of time allowed
9 for proceedings under this article, the regional center director
10 concludes that the behavior of the defendant related to the
11 defendant's criminal offense has been eliminated during time spent
12 in court-ordered programs, the court may, upon recommendation
13 of the regional center director, dismiss the criminal charges. The
14 court shall transmit a copy of any order of dismissal to the regional
15 center director and to the executive director of the developmental
16 center.

17 (e) For the purpose of this section, "secure treatment facility"
18 shall not include, except for state mental hospitals, state
19 developmental centers, and correctional treatment facilities, a
20 facility licensed pursuant to Chapter 2 (commencing with Section
21 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter
22 3.2 (commencing with Section 1569) of, Division 2 of the Health
23 and Safety Code, or a community board and care facility.

24 SEC. 42. Section 1376 of the Penal Code is amended to read:

25 1376. (a) As used in this section, ~~"intellectually~~ "*intellectual*
26 disability" means the condition of significantly subaverage general
27 intellectual functioning existing concurrently with deficits in
28 adaptive behavior and manifested before 18 years of age.

29 (b) (1) In any case in which the prosecution seeks the death
30 penalty, the defendant may, at a reasonable time prior to the
31 commencement of trial, apply for an order directing that a hearing
32 to determine intellectual disability be conducted. Upon the
33 submission of a declaration by a qualified expert stating his or her
34 opinion that the defendant has an intellectual disability, the court
35 shall order a hearing to determine whether the defendant has an
36 intellectual disability. At the request of the defendant, the court
37 shall conduct the hearing without a jury prior to the commencement
38 of the trial. The defendant's request for a court hearing prior to
39 trial shall constitute a waiver of a jury hearing on the issue of
40 intellectual disability. If the defendant does not request a court

1 hearing, the court shall order a jury hearing to determine if the
2 defendant has an intellectual disability. The jury hearing on
3 intellectual disability shall occur at the conclusion of the phase of
4 the trial in which the jury has found the defendant guilty with a
5 finding that one or more of the special circumstances enumerated
6 in Section 190.2 are true. Except as provided in paragraph (3), the
7 same jury shall make a finding that the defendant has an intellectual
8 disability, or that the defendant does not have an intellectual
9 disability.

10 (2) For the purposes of the procedures set forth in this section,
11 the court or jury shall decide only the question of the defendant's
12 intellectual disability. The defendant shall present evidence in
13 support of the claim that he or she has an intellectual disability.
14 The prosecution shall present its case regarding the issue of whether
15 the defendant has an intellectual disability. Each party may offer
16 rebuttal evidence. The court, for good cause in furtherance of
17 justice, may permit either party to reopen its case to present
18 evidence in support of or opposition to the claim of intellectual
19 disability. Nothing in this section shall prohibit the court from
20 making orders reasonably necessary to ensure the production of
21 evidence sufficient to determine whether or not the defendant has
22 an intellectual disability, including, but not limited to, the
23 appointment of, and examination of the defendant by, qualified
24 experts. A statement made by the defendant during an examination
25 ordered by the court is not admissible in the trial on the defendant's
26 guilt.

27 (3) At the close of evidence, the prosecution shall make its final
28 argument, and the defendant shall conclude with his or her final
29 argument. The burden of proof shall be on the defense to prove
30 by a preponderance of the evidence that the defendant has an
31 intellectual disability. The jury shall return a verdict that either the
32 defendant has an intellectual disability or the defendant does not
33 have an intellectual disability. The verdict of the jury shall be
34 unanimous. In any case in which the jury has been unable to reach
35 a unanimous verdict that the defendant has an intellectual disability,
36 and does not reach a unanimous verdict that the defendant does
37 not have an intellectual disability, the court shall dismiss the jury
38 and order a new jury impaneled to try the issue of intellectual
39 disability. The issue of guilt shall not be tried by the new jury.

1 (c) In the event the hearing is conducted before the court prior
2 to the commencement of the trial, the following shall apply:

3 (1) If the court finds that the defendant has an intellectual
4 disability, the court shall preclude the death penalty and the
5 criminal trial thereafter shall proceed as in any other case in which
6 a sentence of death is not sought by the prosecution. If the
7 defendant is found guilty of murder in the first degree, with a
8 finding that one or more of the special circumstances enumerated
9 in Section 190.2 are true, the court shall sentence the defendant to
10 confinement in the state prison for life without the possibility of
11 parole. The jury shall not be informed of the prior proceedings or
12 the findings concerning the defendant's claim of intellectual
13 disability.

14 (2) If the court finds that the defendant does not have an
15 intellectual disability, the trial court shall proceed as in any other
16 case in which a sentence of death is sought by the prosecution.
17 The jury shall not be informed of the prior proceedings or the
18 findings concerning the defendant's claim of intellectual disability.

19 (d) In the event the hearing is conducted before the jury after
20 the defendant is found guilty with a finding that one or more of
21 the special circumstances enumerated in Section 190.2 are true,
22 the following shall apply:

23 (1) If the jury finds that the defendant has an intellectual
24 disability, the court shall preclude the death penalty and shall
25 sentence the defendant to confinement in the state prison for life
26 without the possibility of parole.

27 (2) If the jury finds that the defendant does not have an
28 intellectual disability, the trial shall proceed as in any other case
29 in which a sentence of death is sought by the prosecution.

30 (e) In any case in which the defendant has not requested a court
31 hearing as provided in subdivision (b), and has entered a plea of
32 not guilty by reason of insanity under Sections 190.4 and 1026,
33 the hearing on intellectual disability shall occur at the conclusion
34 of the sanity trial if the defendant is found sane.

35 SEC. 43. Section 2962 of the Penal Code is amended to read:

36 2962. As a condition of parole, a prisoner who meets the
37 following criteria shall be required to be treated by the State
38 Department of Mental Health, and the State Department of Mental
39 Health shall provide the necessary treatment:

- 1 (a) (1) The prisoner has a severe mental disorder that is not in
2 remission or cannot be kept in remission without treatment.
- 3 (2) The term “severe mental disorder” means an illness or
4 disease or condition that substantially impairs the person’s thought,
5 perception of reality, emotional process, or judgment; or that
6 grossly impairs behavior; or that demonstrates evidence of an acute
7 brain syndrome for which prompt remission, in the absence of
8 treatment, is unlikely. The term “severe mental disorder” as used
9 in this section does not include a personality or adjustment disorder,
10 epilepsy, intellectual disability or other developmental disabilities,
11 or addiction to or abuse of intoxicating substances.
- 12 (3) The term “remission” means a finding that the overt signs
13 and symptoms of the severe mental disorder are controlled either
14 by psychotropic medication or psychosocial support. A person
15 “cannot be kept in remission without treatment” if during the year
16 prior to the question being before the Board of Prison Terms or a
17 trial court, he or she has been in remission and he or she has been
18 physically violent, except in self-defense, or he or she has made
19 a serious threat of substantial physical harm upon the person of
20 another so as to cause the target of the threat to reasonably fear
21 for his or her safety or the safety of his or her immediate family,
22 or he or she has intentionally caused property damage, or he or
23 she has not voluntarily followed the treatment plan. In determining
24 if a person has voluntarily followed the treatment plan, the standard
25 shall be whether the person has acted as a reasonable person would
26 in following the treatment plan.
- 27 (b) The severe mental disorder was one of the causes of or was
28 an aggravating factor in the commission of a crime for which the
29 prisoner was sentenced to prison.
- 30 (c) The prisoner has been in treatment for the severe mental
31 disorder for 90 days or more within the year prior to the prisoner’s
32 parole or release.
- 33 (d) (1) Prior to release on parole, the person in charge of treating
34 the prisoner and a practicing psychiatrist or psychologist from the
35 State Department of Mental Health have evaluated the prisoner at
36 a facility of the Department of Corrections and Rehabilitation, and
37 a chief psychiatrist of the Department of Corrections and
38 Rehabilitation has certified to the Board of Parole Hearings that
39 the prisoner has a severe mental disorder, that the disorder is not
40 in remission, or cannot be kept in remission without treatment,

1 that the severe mental disorder was one of the causes or was an
2 aggravating factor in the prisoner's criminal behavior, that the
3 prisoner has been in treatment for the severe mental disorder for
4 90 days or more within the year prior to his or her parole release
5 day, and that by reason of his or her severe mental disorder the
6 prisoner represents a substantial danger of physical harm to others.
7 For prisoners being treated by the State Department of Mental
8 Health pursuant to Section 2684, the certification shall be by a
9 chief psychiatrist of the Department of Corrections and
10 Rehabilitation, and the evaluation shall be done at a state hospital
11 by the person at the state hospital in charge of treating the prisoner
12 and a practicing psychiatrist or psychologist from the Department
13 of Corrections and Rehabilitation.

14 (2) If the professionals doing the evaluation pursuant to
15 paragraph (1) do not concur that (A) the prisoner has a severe
16 mental disorder, (B) that the disorder is not in remission or cannot
17 be kept in remission without treatment, or (C) that the severe
18 mental disorder was a cause of, or aggravated, the prisoner's
19 criminal behavior, and a chief psychiatrist has certified the prisoner
20 to the Board of Parole Hearings pursuant to this paragraph, then
21 the Board of Parole Hearings shall order a further examination by
22 two independent professionals, as provided for in Section 2978.

23 (3) If at least one of the independent professionals who evaluate
24 the prisoner pursuant to paragraph (2) concurs with the chief
25 psychiatrist's certification of the issues described in paragraph (2),
26 this subdivision shall be applicable to the prisoner. The
27 professionals appointed pursuant to Section 2978 shall inform the
28 prisoner that the purpose of their examination is not treatment but
29 to determine if the prisoner meets certain criteria to be involuntarily
30 treated as a mentally disordered offender. It is not required that
31 the prisoner appreciate or understand that information.

32 (e) The crime referred to in subdivision (b) meets both of the
33 following criteria:

34 (1) The defendant received a determinate sentence pursuant to
35 Section 1170 for the crime.

36 (2) The crime is one of the following:

37 (A) Voluntary manslaughter.

38 (B) Mayhem.

39 (C) Kidnapping in violation of Section 207.

- 1 (D) Any robbery wherein it was charged and proved that the
2 defendant personally used a deadly or dangerous weapon, as
3 provided in subdivision (b) of Section 12022, in the commission
4 of that robbery.
- 5 (E) Carjacking, as defined in subdivision (a) of Section 215, if
6 it is charged and proved that the defendant personally used a deadly
7 or dangerous weapon, as provided in subdivision (b) of Section
8 12022, in the commission of the carjacking.
- 9 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
10 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
11 262.
- 12 (G) Sodomy by force, violence, duress, menace, or fear of
13 immediate and unlawful bodily injury on the victim or another
14 person.
- 15 (H) Oral copulation by force, violence, duress, menace, or fear
16 of immediate and unlawful bodily injury on the victim or another
17 person.
- 18 (I) Lewd acts on a child under 14 years of age in violation of
19 Section 288.
- 20 (J) Continuous sexual abuse in violation of Section 288.5.
- 21 (K) The offense described in subdivision (a) of Section 289 if
22 the act was accomplished against the victim's will by force,
23 violence, duress, menace, or fear of immediate and unlawful bodily
24 injury on the victim or another person.
- 25 (L) Arson in violation of subdivision (a) of Section 451, or arson
26 in violation of any other provision of Section 451 or in violation
27 of Section 455 if the act posed a substantial danger of physical
28 harm to others.
- 29 (M) Any felony in which the defendant used a firearm which
30 use was charged and proved as provided in Section 12022.5,
31 12022.53, or 12022.55.
- 32 (N) A violation of Section 18745.
- 33 (O) Attempted murder.
- 34 (P) A crime not enumerated in subparagraphs (A) to (O),
35 inclusive, in which the prisoner used force or violence, or caused
36 serious bodily injury as defined in paragraph (4) of subdivision (f)
37 of Section 243.
- 38 (Q) A crime in which the perpetrator expressly or impliedly
39 threatened another with the use of force or violence likely to
40 produce substantial physical harm in such a manner that a

1 reasonable person would believe and expect that the force or
2 violence would be used. For purposes of this subparagraph,
3 substantial physical harm shall not require proof that the threatened
4 act was likely to cause great or serious bodily injury.

5 (f) As used in this chapter, “substantial danger of physical harm”
6 does not require proof of a recent overt act.

7 SEC. 44. Section 1420 of the Probate Code is amended to read:

8 1420. “Developmental disability” means a disability that
9 originates before an individual attains 18 years of age, continues,
10 or can be expected to continue, indefinitely, and constitutes a
11 substantial handicap for the individual. As defined by the Director
12 of Developmental Services, in consultation with the Superintendent
13 of Public Instruction, this term includes intellectual disability,
14 cerebral palsy, epilepsy, and autism. This term also includes
15 handicapping conditions found to be closely related to intellectual
16 disability or to require treatment similar to that required for
17 individuals with an intellectual disability, but does not include
18 other handicapping conditions that are solely physical in nature.

19 SEC. 45. Section 25276 of the Vehicle Code is amended to
20 read:

21 25276. (a) A motor vehicle designed for carrying more than
22 eight persons, including the driver, owned by a private, nonprofit
23 organization that provides training or other activities for persons
24 who have intellectual or physical disabilities, or both, and that is
25 certified by the Department of Rehabilitation or licensed by the
26 State Department of Developmental Services, with respect to the
27 providing of this training or other activities, may be equipped with
28 a flashing amber light signal system.

29 (b) A motor vehicle, described in subdivision (a), may, while
30 actually engaged in the transportation of persons described in
31 subdivision (a) to or from a training or activity center operated by
32 the organization, display the flashing amber lights of the system
33 when necessarily parked upon a highway and in the process of
34 loading or unloading persons.

35 (c) Subdivisions (a) and (b) apply to a motor vehicle that is
36 rented, leased, or chartered by the organization.

37 SEC. 46. Section 4417 of the Welfare and Institutions Code is
38 amended to read:

39 4417. The State Department of Developmental Services may:

1 (a) Disseminate educational information relating to the
2 prevention, diagnosis and treatment of intellectual disability.

3 (b) Upon request, advise all public officers, organizations and
4 agencies interested in the developmental disabilities of the people
5 of the state.

6 (c) Conduct educational and related work that will tend to
7 encourage the development of proper developmental disabilities
8 facilities throughout the state.

9 The department may organize, establish and maintain community
10 mental hygiene clinics for the prevention, early diagnosis, and
11 treatment of intellectual disability. These clinics may be maintained
12 only for persons not requiring institutional care, who voluntarily
13 seek the aid of the clinics. These clinics may be maintained at the
14 locations in the communities of the state designated by the director,
15 or at any institution under the jurisdiction of the department
16 designated by the director.

17 The department may establish rules and regulations that are
18 necessary to carry out the provisions of this section. This section
19 does not authorize any form of compulsory medical or physical
20 examination, treatment, or control of any person.

21 SEC. 47. Section 4426 of the Welfare and Institutions Code is
22 amended to read:

23 4426. The department may inquire into the manner in which
24 a person with an intellectual disability who is subject to
25 commitment, not confined in a state hospital, is cared for and
26 maintained. If, in its judgment, the person is not properly and
27 suitably cared for, the department may apply to a judge of the
28 superior court for an order to commit him or her to a state hospital
29 under the provisions of this code. This order shall not be made
30 unless the judge finds, and certifies in the order, that the person is
31 not properly or suitably cared for by his or her relatives, legal
32 guardian, or conservator, or that it is dangerous to the public to
33 allow him or her to be cared for and maintained by the relatives,
34 legal guardian, or conservator.

35 SEC. 48. Section 4512 of the Welfare and Institutions Code is
36 amended to read:

37 4512. As used in this division:

38 (a) "Developmental disability" means a disability that originates
39 before an individual attains 18 years of age, continues, or can be
40 expected to continue, indefinitely, and constitutes a substantial

1 disability for that individual. As defined by the Director of
2 Developmental Services, in consultation with the Superintendent
3 of Public Instruction, this term shall include intellectual disability,
4 cerebral palsy, epilepsy, and autism. This term shall also include
5 disabling conditions found to be closely related to intellectual
6 disability or to require treatment similar to that required for
7 individuals with intellectual disability, but shall not include other
8 handicapping conditions that are solely physical in nature.

9 (b) (1) “Services and supports for persons with developmental
10 disabilities” means specialized services and supports or special
11 adaptations of generic services and supports directed toward the
12 alleviation of a developmental disability or toward the social,
13 personal, physical, or economic habilitation or rehabilitation of an
14 individual with a developmental disability, or toward the
15 achievement and maintenance of independent, productive, normal
16 lives. The determination of services and supports that are necessary
17 for each consumer shall be made through the individual program
18 plan process. The determination shall be made on the basis of the
19 needs and preferences of the consumer or, when appropriate, the
20 consumer’s family, and shall include consideration of a range of
21 service options proposed by individual program plan participants,
22 the effectiveness of each option in meeting the goals stated in the
23 individual program plan, and the cost-effectiveness of each option.

24 (2) Services and supports listed in the individual program plan
25 may include, but are not limited to, any of the following: diagnosis,
26 evaluation, treatment, personal care, day care, domiciliary care,
27 special living arrangements, physical, occupational, and speech
28 therapy, training, education, supported and sheltered employment,
29 mental health services, recreation, counseling of the individual
30 with a developmental disability and of his or her family, protective
31 and other social and sociolegal services, information and referral
32 services, follow-along services, adaptive equipment and supplies,
33 advocacy assistance, including self-advocacy training, facilitation
34 and peer advocates, assessment, assistance in locating a home,
35 child care, behavior training and behavior modification programs,
36 camping, community integration services, community support,
37 daily living skills training, emergency and crisis intervention,
38 facilitating circles of support, habilitation, homemaker services,
39 infant stimulation programs, paid roommates, paid neighbors,
40 respite, short-term out-of-home care, social skills training,

1 specialized medical and dental care, supported living arrangements,
2 technical and financial assistance, travel training, training for
3 parents of children with developmental disabilities, training for
4 parents with developmental disabilities, vouchers, and
5 transportation services necessary to ensure delivery of services to
6 persons with developmental disabilities.

7 (3) Nothing in this subdivision is intended to expand or authorize
8 a new or different service or support for any consumer unless that
9 service or support is contained in his or her individual program
10 plan.

11 (c) Notwithstanding subdivisions (a) and (b), for any
12 organization or agency receiving federal financial participation
13 under the federal Developmental Disabilities Assistance and Bill
14 of Rights Act, as amended “developmental disability” and “services
15 for persons with developmental disabilities” means the terms as
16 defined in the federal act to the extent required by federal law.

17 (d) “Consumer” means a person who has a disability that meets
18 the definition of developmental disability set forth in subdivision
19 (a).

20 (e) “Natural supports” means personal associations and
21 relationships typically developed in the community that enhance
22 the quality and security of life for people, including, but not limited
23 to, family relationships, friendships reflecting the diversity of the
24 neighborhood and the community, associations with fellow students
25 or employees in regular classrooms and workplaces, and
26 associations developed through participation in clubs,
27 organizations, and other civic activities.

28 (f) “Circle of support” means a committed group of community
29 members, who may include family members, meeting regularly
30 with an individual with developmental disabilities in order to share
31 experiences, promote autonomy and community involvement, and
32 assist the individual in establishing and maintaining natural
33 supports. A circle of support generally includes a plurality of
34 members who neither provide nor receive services or supports for
35 persons with developmental disabilities and who do not receive
36 payment for participation in the circle of support.

37 (g) “Facilitation” means the use of modified or adapted
38 materials, special instructions, equipment, or personal assistance
39 by an individual, including assistance with communications, that
40 will enable a consumer to understand and participate to the

1 maximum extent possible in the decisions and choices that effect
2 his or her life.

3 (h) “Family support services” means services and supports that
4 are provided to a child with developmental disabilities or his or
5 her family and that contribute to the ability of the family to reside
6 together.

7 (i) “Voucher” means an authorized alternative form of service
8 delivery in which the consumer or family member is provided with
9 a payment, coupon, chit, or other form of authorization that enables
10 the consumer or family member to choose his or her own service
11 provider.

12 (j) “Planning team” means the individual with developmental
13 disabilities, the parents or legally appointed guardian of a minor
14 consumer or the legally appointed conservator of an adult
15 consumer, the authorized representative, including those appointed
16 pursuant to subdivision (d) of Section 4548 and subdivision (e) of
17 Section 4705, one or more regional center representatives,
18 including the designated regional center service coordinator
19 pursuant to subdivision (b) of Section 4640.7, an individual,
20 including a service provider, invited by the consumer, the parents
21 or legally appointed guardian of a minor consumer or the legally
22 appointed conservator of an adult consumer, or the authorized
23 representative, including those appointed pursuant to subdivision
24 (d) of Section 4548 and subdivision (e) of Section 4705, and
25 including a minor’s, dependent’s, or ward’s court-appointed
26 developmental services decisionmaker appointed pursuant to
27 Section 319, 361, or 726.

28 (k) “Stakeholder organizations” means statewide organizations
29 representing the interests of consumers, family members, service
30 providers, and statewide advocacy organizations.

31 (l) “Substantial disability” means the existence of significant
32 functional limitations in three or more of the following areas of
33 major life activity, as determined by a regional center, and as
34 appropriate to the age of the person:

- 35 (1) Self-care.
- 36 (2) Receptive and expressive language.
- 37 (3) Learning.
- 38 (4) Mobility.
- 39 (5) Self-direction.
- 40 (6) Capacity for independent living.

1 (7) Economic self-sufficiency.

2 A reassessment of substantial disability for purposes of
3 continuing eligibility shall utilize the same criteria under which
4 the individual was originally made eligible.

5 SEC. 49. Section 4801 of the Welfare and Institutions Code is
6 amended to read:

7 4801. (a) Judicial review shall be in the superior court for the
8 county in which the state hospital, developmental center,
9 community care facility, or health facility is located, except that,
10 if the adult has been found incompetent to stand trial and has been
11 committed pursuant to Chapter 6 (commencing with Section 1367)
12 of Title 10 of Part 2 of the Penal Code, judicial review shall be in
13 the superior court of the county that determined the question of
14 the mental competence of the defendant. The adult requesting to
15 be released shall be informed of his or her right to counsel by a
16 member of the staff of the state hospital, developmental center,
17 community care facility, or health facility and by the court; and if
18 he or she does not have an attorney for the proceedings, the court
19 shall immediately appoint the public defender or other attorney to
20 assist him or her in the preparation of a petition for the writ of
21 habeas corpus and to represent him or her in the proceedings. The
22 person shall pay the costs of those legal services if he or she is
23 able.

24 (b) At the time the petition for the writ of habeas corpus is filed
25 with the court, the clerk of the court shall transmit a copy of the
26 petition, together with notification as to the time and place of an
27 evidentiary hearing in the matter, to the parent or conservator of
28 the person seeking release or for whom release is sought and to
29 the director of the appropriate regional center. Notice shall also
30 be provided to the director of the appropriate developmental center
31 if the person seeking release or for whom release is sought resides
32 in a developmental center. The notice shall be sent by registered
33 or certified mail with proper postage prepaid, addressed to the
34 addressee's last known address, and with a return receipt requested.

35 (c) The court shall either release the adult or order an evidentiary
36 hearing to be held not sooner than five judicial days nor more than
37 10 judicial days after the petition and notice to the adult's parent
38 or conservator and to the director of the appropriate regional center
39 and developmental center are deposited in the United States mail
40 pursuant to this section.

1 (1) Except as provided in paragraph (2), if the court finds (A)
2 that the adult requesting release or for whom release is requested
3 is not developmentally disabled, or (B) that he or she is
4 developmentally disabled and that he or she is able to provide
5 safely for his or her basic personal needs for food, shelter, and
6 clothing, he or she shall be released within 72 hours. If the court
7 finds that he or she is developmentally disabled and that he or she
8 is unable to provide safely for his or her basic personal needs for
9 food, shelter, or clothing, but that a responsible person or a regional
10 center or other public or private agency is willing and able to
11 provide therefor, the court shall release the developmentally
12 disabled adult to the responsible person or regional center or other
13 public or private agency, as the case may be, subject to any
14 conditions that the court deems proper for the welfare of the
15 developmentally disabled adult and that are consistent with the
16 purposes of this division.

17 (2) If the person is charged with a violent felony and has been
18 committed to his or her current placement pursuant to Section
19 1370.1 of the Penal Code or Section 6500, and the court finds (A)
20 that the adult requesting release or for whom release is requested
21 does not have a developmental disability or an intellectual
22 disability, or (B) that he or she is able to provide safely for his or
23 her basic personal needs for food, shelter, and clothing, the court
24 shall, before releasing the person, determine that the release will
25 not pose a danger to the health or safety of others due to the
26 person's known behavior. If the court finds there is no danger
27 pursuant to the finding required by subparagraph (D) of paragraph
28 (1) of subdivision (a) of Section 1370.1 of the Penal Code, the
29 person shall be released within 72 hours. If the person's release
30 poses a danger to the health or safety of others, the court may grant
31 or deny the request, taking into account the danger to the health
32 or safety of others posed by the person. If the court finds that
33 release of the person can be made subject to conditions that the
34 court deems proper for the preservation of public health and safety
35 and the welfare of the person, the person shall be released subject
36 to those conditions.

37 (d) If in a proceeding under this section, the court finds that the
38 adult is developmentally disabled and has no parent or conservator,
39 and is in need of a conservator, the court shall order the appropriate
40 regional center or the state department to initiate, or cause to be

1 initiated, proceedings for the appointment of a conservator for the
2 developmentally disabled adult.

3 (e) This section shall become operative January 1, 1988.

4 SEC. 50. Section 5002 of the Welfare and Institutions Code is
5 amended to read:

6 5002. Mentally disordered persons and persons impaired by
7 chronic alcoholism may no longer be judicially committed.

8 Mentally disordered persons shall receive services pursuant to
9 this part. Persons impaired by chronic alcoholism may receive
10 services pursuant to this part if they elect to do so pursuant to
11 Article 3 (commencing with Section 5225) of Chapter 2.

12 Epileptics may no longer be judicially committed.

13 This part shall not be construed to repeal or modify laws relating
14 to the commitment of mentally disordered sex offenders, persons
15 with an intellectual disability, and mentally disordered criminal
16 offenders, except as specifically provided in ~~Penal Code~~ Section
17 4011.6 *of the Penal Code*, or as specifically provided in other
18 statutes.

19 SEC. 51. Section 5008 of the Welfare and Institutions Code is
20 amended to read:

21 5008. Unless the context otherwise requires, the following
22 definitions shall govern the construction of this part:

23 (a) "Evaluation" consists of multidisciplinary professional
24 analyses of a person's medical, psychological, educational, social,
25 financial, and legal conditions that may appear to constitute a
26 problem. A person providing evaluation services shall be a properly
27 qualified professional and may be a full-time employee of an
28 agency providing evaluation services, may be a part-time employee,
29 or may be employed on a contractual basis.

30 (b) "Court-ordered evaluation" means an evaluation ordered by
31 a superior court pursuant to Article 2 (commencing with Section
32 5200) or by a court pursuant to Article 3 (commencing with Section
33 5225) of Chapter 2.

34 (c) "Intensive treatment" consists of hospital and other services
35 that may be indicated. Intensive treatment shall be provided by
36 properly qualified professionals and carried out in facilities
37 qualifying for reimbursement under the California Medical
38 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
39 with Section 14000) of Part 3 of Division 9, or under Title XVIII
40 of the federal Social Security Act and regulations thereunder.

1 Intensive treatment may be provided in hospitals of the United
2 States government by properly qualified professionals. Nothing
3 in this part shall be construed to prohibit an intensive treatment
4 facility from also providing 72-hour treatment and evaluation.

5 (d) “Referral” is referral of persons by each agency or facility
6 providing intensive treatment or evaluation services to other
7 agencies or individuals. The purpose of referral shall be to provide
8 for continuity of care, and may include, but need not be limited
9 to, informing the person of available services, making appointments
10 on the person’s behalf, discussing the person’s problem with the
11 agency or individual to whom the person has been referred,
12 appraising the outcome of referrals, and arranging for personal
13 escort and transportation when necessary. Referral shall be
14 considered complete when the agency or individual to whom the
15 person has been referred accepts responsibility for providing the
16 necessary services. A person shall be advised of available precare
17 services that prevent initial recourse to hospital treatment or
18 aftercare services that support adjustment to community living
19 following hospital treatment. These services may be provided
20 through county welfare departments, State Department of Mental
21 Health, Short-Doyle programs, or other local agencies.

22 Each agency or facility providing evaluation services shall
23 maintain a current and comprehensive file of all community
24 services, both public and private. These files shall contain current
25 agreements with agencies or individuals accepting referrals, as
26 well as appraisals of the results of past referrals.

27 (e) “Crisis intervention” consists of an interview or series of
28 interviews within a brief period of time, conducted by qualified
29 professionals, and designed to alleviate personal or family
30 situations that present a serious and imminent threat to the health
31 or stability of the person or the family. The interview or interviews
32 may be conducted in the home of the person or family, or on an
33 inpatient or outpatient basis with the therapy, or other services, as
34 may be appropriate. Crisis intervention may, as appropriate, include
35 suicide prevention, psychiatric, welfare, psychological, legal, or
36 other social services.

37 (f) “Prepetition screening” is a screening of all petitions for
38 court-ordered evaluation as provided in Article 2 (commencing
39 with Section 5200) of Chapter 2, consisting of a professional
40 review of all petitions; an interview with the petitioner and,

1 whenever possible, the person alleged, as a result of mental
 2 disorder, to be a danger to others, or to himself or herself, or to be
 3 gravely disabled, to assess the problem and explain the petition;
 4 when indicated, efforts to persuade the person to receive, on a
 5 voluntary basis, comprehensive evaluation, crisis intervention,
 6 referral, and other services specified in this part.

7 (g) “Conservatorship investigation” means investigation by an
 8 agency appointed or designated by the governing body of cases in
 9 which conservatorship is recommended pursuant to Chapter 3
 10 (commencing with Section 5350).

11 (h) (1) For purposes of Article 1 (commencing with Section
 12 5150), Article 2 (commencing with Section 5200), and Article 4
 13 (commencing with Section 5250) of Chapter 2, and for the purposes
 14 of Chapter 3 (commencing with Section 5350), “gravely disabled”
 15 means either of the following:

16 (A) A condition in which a person, as a result of a mental
 17 disorder, is unable to provide for his or her basic personal needs
 18 for food, clothing, or shelter.

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

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

26 (ii) The indictment or information has not been dismissed.

27 (iii) As a result of mental disorder, the person is unable to
 28 understand the nature and purpose of the proceedings taken against
 29 him or her and to assist counsel in the conduct of his or her defense
 30 in a rational manner.

31 (2) For purposes of Article 3 (commencing with Section 5225)
 32 and Article 4 (commencing with Section 5250), of Chapter 2, and
 33 for the purposes of Chapter 3 (commencing with Section 5350),
 34 “gravely disabled” means a condition in which a person, as a result
 35 of impairment by chronic alcoholism, is unable to provide for his
 36 or her basic personal needs for food, clothing, or shelter.

37 (3) The term “gravely disabled” does not include persons with
 38 intellectual disabilities by reason of having an intellectual disability
 39 alone.

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

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

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

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

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

21 SEC. 52. Section 5325 of the Welfare and Institutions Code is
22 amended to read:

23 5325. Each person involuntarily detained for evaluation or
24 treatment under provisions of this part, each person admitted as a
25 voluntary patient for psychiatric evaluation or treatment to any
26 health facility, as defined in Section 1250 of the Health and Safety
27 Code, in which psychiatric evaluation or treatment is offered, and
28 each person with an intellectual disability committed to a state
29 hospital pursuant to Article 2 (commencing with Section 6500) of
30 Chapter 2 of Part 2 of Division 6 shall have the following rights,
31 a list of which shall be prominently posted in the predominant
32 languages of the community and explained in a language or
33 modality accessible to the patient in all facilities providing these
34 services and otherwise brought to his or her attention by additional
35 means that the Director of Mental Health may designate by
36 regulation:

37 (a) To wear his or her own clothes; to keep and use his or her
38 own personal possessions including his or her toilet articles; and
39 to keep and be allowed to spend a reasonable sum of his or her
40 own money for canteen expenses and small purchases.

1 (b) To have access to individual storage space for his or her
2 private use.

3 (c) To see visitors each day.

4 (d) To have reasonable access to telephones, both to make and
5 receive confidential calls or to have calls made for them.

6 (e) To have ready access to letterwriting materials, including
7 stamps, and to mail and receive unopened correspondence.

8 (f) To refuse convulsive treatment including, but not limited to,
9 any electroconvulsive treatment, any treatment of the mental
10 condition that depends on the induction of a convulsion by any
11 means, and insulin coma treatment.

12 (g) To refuse psychosurgery. Psychosurgery is defined as those
13 operations currently referred to as lobotomy, psychiatric surgery,
14 and behavioral surgery and all other forms of brain surgery if the
15 surgery is performed for the purpose of any of the following:

16 (1) Modification or control of thoughts, feelings, actions, or
17 behavior rather than the treatment of a known and diagnosed
18 physical disease of the brain.

19 (2) Modification of normal brain function or normal brain tissue
20 in order to control thoughts, feelings, actions, or behavior.

21 (3) Treatment of abnormal brain function or abnormal brain
22 tissue in order to modify thoughts, feelings, actions, or behavior
23 when the abnormality is not an established cause for those thoughts,
24 feelings, actions, or behavior.

25 Psychosurgery does not include prefrontal sonic treatment
26 wherein there is no destruction of brain tissue. The Director of
27 Mental Health shall promulgate appropriate regulations to assure
28 adequate protection of patients' rights in such treatment.

29 (h) To see and receive the services of a patient advocate who
30 has no direct or indirect clinical or administrative responsibility
31 for the person receiving mental health services.

32 (i) Other rights, as specified by regulation.

33 Each patient shall also be given notification in a language or
34 modality accessible to the patient of other constitutional and
35 statutory rights that are found by the State Department of Mental
36 Health to be frequently misunderstood, ignored, or denied.

37 Upon admission to a facility each patient shall immediately be
38 given a copy of a State Department of Mental Health prepared
39 patients' rights handbook.

1 The State Department of Mental Health shall prepare and provide
2 the forms specified in this section and in Section 5157.

3 The rights specified in this section may not be waived by the
4 person’s parent, guardian, or conservator.

5 SEC. 53. Section 5585.25 of the Welfare and Institutions Code
6 is amended to read:

7 5585.25. “Gravely disabled minor” means a minor who, as a
8 result of a mental disorder, is unable to use the elements of life
9 that are essential to health, safety, and development, including
10 food, clothing, and shelter, even though provided to the minor by
11 others. Intellectual disability, epilepsy, or other developmental
12 disabilities, alcoholism, other drug abuse, or repeated antisocial
13 behavior do not, by themselves, constitute a mental disorder.

14 SEC. 54. Section 6250 of the Welfare and Institutions Code is
15 amended to read:

16 6250. As used in this part, “persons subject to judicial
17 commitment” means persons who may be judicially committed
18 under this part as mentally disordered sex offenders pursuant to
19 Article 1 (commencing with Section 6331), sexually violent
20 predators pursuant to Article 4 (commencing with Section 6600),
21 or persons with intellectual disabilities pursuant to Article 2
22 (commencing with Section 6500) of Chapter 2.

23 Nothing in this part shall be held to change or interfere with the
24 provisions of the Penal Code and other laws relating to mentally
25 disordered persons charged with crime or to the criminally insane.

26 This part shall be liberally construed so that, as far as possible
27 and consistent with the rights of persons subject to commitment,
28 those persons shall be treated, not as criminals, but as sick persons.

29 SEC. 55. The heading of Article 2 (commencing with Section
30 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and
31 Institutions Code is amended to read:

32

33 Article 2. Persons with Intellectual Disabilities

34

35 SEC. 56. Section 6500 of the Welfare and Institutions Code is
36 amended to read:

37 6500. On and after July 1, 1971, a person with an intellectual
38 disability may not be committed to the State Department of
39 Developmental Services pursuant to this article, unless he or she
40 is a danger to himself or herself, or others. For the purposes of this

1 article, dangerousness to self or others shall be considered to
2 include, but not be limited to, a finding of incompetence to stand
3 trial pursuant to the provisions of Chapter 6 (commencing with
4 Section 1367) of Title 10 of Part 2 of the Penal Code when the
5 defendant has been charged with murder, mayhem, aggravated
6 mayhem, a violation of Section 207, 209, or 209.5 of the Penal
7 Code in which the victim suffers intentionally inflicted great bodily
8 injury, robbery perpetrated by torture or by a person armed with
9 a dangerous or deadly weapon or in which the victim suffers great
10 bodily injury, carjacking perpetrated by torture or by a person
11 armed with a dangerous or deadly weapon or in which the victim
12 suffers great bodily injury, a violation of subdivision (b) of Section
13 451 of the Penal Code, a violation of paragraph (1) or (2) of
14 subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision
15 (a) of Section 261 of the Penal Code, a violation of Section 288
16 of the Penal Code, any of the following acts when committed by
17 force, violence, duress, menace, fear of immediate and unlawful
18 bodily injury on the victim or another person: a violation of
19 paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal
20 Code, a violation of Section 264.1, 286, or 288a of the Penal Code,
21 or a violation of subdivision (a) of Section 289 of the Penal Code;
22 a violation of Section 459 of the Penal Code in the first degree,
23 assault with intent to commit murder, a violation of Section 220
24 of the Penal Code in which the victim suffers great bodily injury,
25 a violation of Section 18725, 18740, 18745, 18750, or 18755 of
26 the Penal Code, or if the defendant has been charged with a felony
27 involving death, great bodily injury, or an act that poses a serious
28 threat of bodily harm to another person.

29 If the person with an intellectual disability is in the care or
30 treatment of a state hospital, developmental center, or other facility
31 at the time a petition for commitment is filed pursuant to this
32 article, proof of a recent overt act while in the care and treatment
33 of a state hospital, developmental center, or other facility is not
34 required in order to find that the person is a danger to self or others.

35 An order of commitment made pursuant to this article shall
36 expire automatically one year after the order of commitment is
37 made. This section shall not be construed to prohibit a party
38 enumerated in Section 6502 from filing subsequent petitions for
39 additional periods of commitment. In the event subsequent petitions

1 are filed, the procedures followed shall be the same as with an
2 initial petition for commitment.

3 In any proceedings conducted under the authority of this article,
4 the person alleged to have an intellectual disability shall be
5 informed of his or her right to counsel by the court, and if the
6 person does not have an attorney for the proceedings, the court
7 shall immediately appoint the public defender or other attorney to
8 represent him or her. The person shall pay the cost for the legal
9 services if he or she is able to do so. At a judicial proceeding under
10 the provisions of this article, allegations that a person has an
11 intellectual disability and is a danger to himself or herself or to
12 others shall be presented by the district attorney for the county
13 unless the board of supervisors, by ordinance or resolution,
14 delegates this authority to the county counsel.

15 SEC. 57. Section 6502 of the Welfare and Institutions Code is
16 amended to read:

17 6502. A petition for the commitment of a person with an
18 intellectual disability to the State Department of Developmental
19 Services who has been found incompetent to stand trial pursuant
20 to Chapter 6 (commencing with Section 1367) of Title 10 of Part
21 2 of the Penal Code when the defendant has been charged with
22 one or more of the offenses identified or described in Section 6500,
23 may be filed in the superior court of the county that determined
24 the question of mental competence of the defendant. All other
25 petitions may be filed in the county in which that person is
26 physically present. The following persons may request the person
27 authorized to present allegations pursuant to Section 6500 to file
28 a petition for commitment:

29 (a) The parent, guardian, conservator, or other person charged
30 with the support of the person.

31 (b) The probation officer.

32 (c) The Division of Juvenile Facilities, Department of
33 Corrections and Rehabilitation.

34 (d) A person designated for that purpose by the judge of the
35 court.

36 (e) The Secretary of the Department of Corrections and
37 Rehabilitation.

38 (f) The regional center director or his or her designee.

1 The request shall state the petitioner's reasons for supposing the
2 person to be eligible for admission thereto, and shall be verified
3 by affidavit.

4 SEC. 58. Section 6504 of the Welfare and Institutions Code is
5 amended to read:

6 6504. In all cases the court shall require due notice of the
7 hearing of the petition to be given to the person alleged to have an
8 intellectual disability. Whenever a petition is filed, the court shall
9 require notice of the hearing of the petition that it deems proper
10 to be given to a parent, guardian, conservator, or other person
11 charged with the support of the person mentioned in the petition.

12 SEC. 59. Section 6504.5 of the Welfare and Institutions Code
13 is amended to read:

14 6504.5. If a petition is filed pursuant to this article, the court
15 shall appoint the director of a regional center for the
16 developmentally disabled established under Division 4.5, or the
17 designee of the director, to examine the person alleged to have an
18 intellectual disability.

19 Within 15 judicial days after his or her appointment, the regional
20 center director or designee shall submit to the court in writing a
21 report containing his or her evaluation of the person alleged to
22 have an intellectual disability. The report shall contain a
23 recommendation of a facility or facilities in which the person
24 alleged to have an intellectual disability may be placed.

25 The report shall include a description of the least restrictive
26 residential placement necessary to achieve the purposes of
27 treatment. In determining the least restrictive residential placement,
28 consideration shall be given to public safety. If placement into or
29 out of a developmental center is recommended, the regional center
30 director or designee simultaneously shall submit the report to the
31 executive director of the developmental center or his or her
32 designee. The executive director of the developmental center or
33 his or her designee may, within 15 days of receiving the regional
34 center report, submit to the court a written report evaluating the
35 ability of the developmental center to achieve the purposes of
36 treatment for this person and whether the developmental center
37 placement can adequately provide the security measures or systems
38 required to protect the public health and safety from the potential
39 dangers posed by the person's known behaviors.

1 The reports prepared by the regional center director and
2 developmental center director, if applicable, shall also address
3 suitable interim placements for the person as provided for in
4 Section 6506.

5 SEC. 60. Section 6505 of the Welfare and Institutions Code is
6 amended to read:

7 6505. Whenever the court considers it necessary or advisable,
8 it may cause an order to issue for the apprehension and delivery
9 to the court of the person alleged to have an intellectual disability,
10 and may have the order executed by a peace officer.

11 SEC. 61. Section 6506 of the Welfare and Institutions Code is
12 amended to read:

13 6506. Pending the hearing, the court may order that the alleged
14 dangerous person with an intellectual disability may be left in the
15 charge of his or her parent, guardian, conservator, or other suitable
16 person, or placed in a state hospital for the developmentally
17 disabled, in the county psychiatric hospital, or in any other suitable
18 placement, as determined by the court. Prior to the issuance of an
19 order under this section, the regional center and developmental
20 center, if applicable, shall recommend to the court a suitable person
21 or facility to care for the person alleged to have an intellectual
22 disability. The determination of a suitable person or facility shall
23 be the least restrictive option that provides for the person's
24 treatment needs and that has existing security systems or measures
25 in place to adequately protect the public safety from any known
26 dangers posed by the person. In determining whether the public
27 safety will be adequately protected, the court shall make the finding
28 required by subparagraph (D) of paragraph (1) of subdivision (a)
29 of Section 1370.1 of the Penal Code.

30 Pending the hearing, the court may order that the person receive
31 necessary habilitation, care, and treatment, including medical and
32 dental treatment.

33 Orders made pursuant to this section shall expire at the time set
34 for the hearing pursuant to Section 6503. If the court upon a
35 showing of good cause grants a continuance of the hearing on the
36 matter, it shall order that the person be detained pursuant to this
37 section until the hearing on the petition is held.

38 SEC. 62. Section 6507 of the Welfare and Institutions Code is
39 amended to read:

1 6507. The court shall inquire into the condition or status of the
2 person alleged to have an intellectual disability. For this purpose
3 it may, by subpoena, require the attendance before it of a physician
4 who has made a special study of intellectual disabilities and is
5 qualified as a medical examiner, and of a clinical psychologist, or
6 of two of these physicians, or of two of these psychologists, to
7 examine the person and testify concerning his or her mentality.
8 The court may also, by subpoena, require the attendance of other
9 persons as it deems advisable, to give evidence.

10 SEC. 63. Section 6508 of the Welfare and Institutions Code is
11 amended to read:

12 6508. Each psychologist and physician shall receive for each
13 attendance mentioned in Section 6507 the sum of five dollars (\$5)
14 for each person examined, together with his or her necessary actual
15 expenses occasioned thereby, and other witnesses shall receive for
16 attendance those fees and expenses as the court in its discretion
17 allows, if any, not exceeding the fees and expenses allowed by
18 law in other cases in the superior court.

19 Any fees or traveling expenses payable to a psychologist,
20 physician, or witness as provided in this section and all expenses
21 connected with the execution of a process under the provisions of
22 this article, which are not paid by the parent, guardian, conservator,
23 or person charged with the support of the person supposed to have
24 an intellectual disability, shall be paid by the county treasurer of
25 the county in which the person resides, upon the presentation to
26 the treasurer of a certificate of the judge that the claimant is entitled
27 thereto.

28 SEC. 64. Section 6509 of the Welfare and Institutions Code is
29 amended to read:

30 6509. (a) If the court finds that the person has an intellectual
31 disability, and that he or she is a danger to himself, herself, or to
32 others, the court may make an order that the person be committed
33 to the State Department of Developmental Services for suitable
34 treatment and habilitation services. Suitable treatment and
35 habilitation services is defined as the least restrictive residential
36 placement necessary to achieve the purposes of treatment. Care
37 and treatment of a person committed to the State Department of
38 Developmental Services may include placement in a state hospital,
39 developmental center, a licensed community care facility, as
40 defined in Section 1502 of the Health and Safety Code, or a health

1 facility, as defined in Section 1250 of the Health and Safety Code,
2 or any other appropriate placement permitted by law. The court
3 shall hold a hearing as to the available placement alternatives and
4 consider the reports of the regional center director or designee and
5 the developmental center director or designee submitted pursuant
6 to Section 6504.5. After hearing all the evidence, the court shall
7 order that the person be committed to that placement that the court
8 finds to be the most appropriate alternative. If the court finds that
9 release of the person can be made subject to conditions that the
10 court deems proper and adequate for the protection and safety of
11 others and the welfare of the person, the person shall be released
12 subject to those conditions.

13 The court, however, may commit a person who has an intellectual
14 disability who is not a resident of this state under Section 4460 for
15 the purpose of transportation of the person to the state of his or
16 her legal residence pursuant to Section 4461. The State Department
17 of Developmental Services shall receive the person committed to
18 it and shall place the person in the placement ordered by the court.

19 (b) If the person has at any time been found mentally
20 incompetent pursuant to Chapter 6 (commencing with Section
21 1367) of Title 10 of Part 2 of the Penal Code arising out of a
22 complaint charging a felony offense specified in Section 290 of
23 the Penal Code, the court shall order the State Department of
24 Developmental Services to give notice of that finding to the
25 designated placement facility and the appropriate law enforcement
26 agency or agencies having local jurisdiction at the site of the
27 placement facility.

28 (c) If the State Department of Developmental Services decides
29 that a change in placement is necessary, it shall notify in writing
30 the court of commitment, the district attorney, and the attorney of
31 record for the person and the regional center of its decision at least
32 15 days in advance of the proposed change in placement. The court
33 may hold a hearing and (1) approve or disapprove of the change,
34 or (2) take no action in which case the change shall be deemed
35 approved. At the request of the district attorney or of the attorney
36 for the person, a hearing shall be held.

37 SEC. 65. Section 6511 of the Welfare and Institutions Code is
38 amended to read:

1 6511. A person who knowingly contrives to have a person
2 adjudged to have an intellectual disability under the provisions of
3 this article, unlawfully or improperly, is guilty of a misdemeanor.

4 SEC. 66. Section 6512 of the Welfare and Institutions Code is
5 amended to read:

6 6512. If, when a boy or girl is brought before a juvenile court
7 under the juvenile court law, it appears to the court, either before
8 or after adjudication, that the person has an intellectual disability,
9 or if, on the conviction of any person of crime by any court it
10 appears to the court that the person has an intellectual disability,
11 the court may adjourn the proceedings or suspend the sentence, as
12 the case may be, and direct some suitable person to take
13 proceedings under this article against the person before the court,
14 and the court may order that, pending the preparation, filing, and
15 hearing of the petition, the person before the court be detained in
16 a place of safety, or be placed under the guardianship of some
17 suitable person, on his or her entering into a recognizance for the
18 appearance of the person upon trial or under conviction when
19 required. If, upon the hearing of the petition, or upon a subsequent
20 hearing, the person upon trial or under conviction is not found to
21 have an intellectual disability, the court may proceed with the trial
22 or impose sentence, as the case may be.

23 SEC. 67. Section 6513 of the Welfare and Institutions Code is
24 amended to read:

25 6513. (a) The State Department of Developmental Services
26 shall pay for the costs, as defined in this section, of judicial
27 proceedings, including commitment, placement, or release, under
28 this article under both of the following conditions:

29 (1) The judicial proceedings are in a county where a state
30 hospital or developmental center maintains a treatment program
31 for persons with intellectual disabilities who are a danger to
32 themselves or others.

33 (2) The judicial proceedings relate to a person with an
34 intellectual disability who is at the time residing in the state hospital
35 or developmental center located in the county of the proceedings.

36 (b) The appropriate financial officer or other designated official
37 in a county described in subdivision (a) may prepare a statement
38 of all costs incurred by the county in the investigation, preparation
39 for, and conduct of the proceeding, including any costs of the
40 district attorney or county counsel and any public defender or

1 court-appointed counsel representing the person, and including
2 any costs incurred by the county for the guarding or keeping of
3 the person while away from the state hospital and for transportation
4 of the person to and from the hospital. The statement shall be
5 certified by a judge of the superior court and shall be sent to the
6 State Department of Developmental Services. In lieu of sending
7 statements after each proceeding, the statements may be held and
8 submitted quarterly for the preceding three-month period.

9 SEC. 68. Section 6551 of the Welfare and Institutions Code is
10 amended to read:

11 6551. (a) (1) If the court is in doubt as to whether the person
12 is mentally disordered or has an intellectual disability, the court
13 shall order the person to be taken to a facility designated by the
14 county and approved by the State Department of Mental Health
15 as a facility for 72-hour treatment and evaluation. Thereupon,
16 Article 1 (commencing with Section 5150) of Chapter 2 of Part 1
17 of Division 5 applies, except that the professional person in charge
18 of the facility shall make a written report to the court concerning
19 the results of the evaluation of the person's mental condition.

20 (2) If the professional person in charge of the facility finds the
21 person is, as a result of mental disorder, in need of intensive
22 treatment, the person may be certified for not more than 14 days
23 of involuntary intensive treatment if the conditions set forth in
24 subdivision (c) of Section 5250 and subdivision (b) of Section
25 5260 are complied with. Thereupon, Article 4 (commencing with
26 Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to
27 the person. The person may be detained pursuant to Article 4.5
28 (commencing with Section 5260), or Article 4.7 (commencing
29 with Section 5270.10), or Article 6 (commencing with Section
30 5300) of Chapter 2 of Part 1 of Division 5 if that article applies.

31 (b) (1) If the professional person in charge of the facility finds
32 that the person has an intellectual disability, the juvenile court may
33 direct the filing in any other court of a petition for the commitment
34 of a minor as a person with an intellectual disability to the State
35 Department of Developmental Services for placement in a state
36 hospital. In this case, the juvenile court shall transmit to the court
37 in which the petition is filed a copy of the report of the professional
38 person in charge of the facility in which the minor was placed for
39 observation.

1 (2) The court in which the petition for commitment is filed may
2 accept the report of the professional person in lieu of the
3 appointment, or subpoenaing, and testimony of other expert
4 witnesses appointed by the court, if the laws applicable to the
5 commitment proceedings provide for the appointment by court of
6 medical or other expert witnesses or may consider the report as
7 evidence in addition to the testimony of medical or other expert
8 witnesses.

9 (c) If the professional person in charge of the facility for 72-hour
10 evaluation and treatment reports to the juvenile court that the minor
11 is not affected with a mental disorder requiring intensive treatment
12 or does not have an intellectual disability, the professional person
13 in charge of the facility shall return the minor to the juvenile court
14 on or before the expiration of the 72-hour period and the court
15 shall proceed with the case in accordance with the Juvenile Court
16 Law.

17 (d) An expenditure for the evaluation or intensive treatment of
18 a minor under this section shall be considered an expenditure made
19 under Part 2 (commencing with Section 5600) of Division 5 and
20 shall be reimbursed by the state as are other local expenditures
21 pursuant to that part.

22 (e) The jurisdiction of the juvenile court over the minor shall
23 be suspended during the time that the minor is subject to the
24 jurisdiction of the court in which the petition for postcertification
25 treatment of an imminently dangerous person or the petition for
26 commitment of a person with an intellectual disability is filed or
27 under remand for 90 days for intensive treatment or commitment
28 ordered by the court.

29 SEC. 69. The heading of Article 4 (commencing with Section
30 6715) of Chapter 3 of Part 2 of Division 6 of the Welfare and
31 Institutions Code is amended to read:

32

33 Article 4. Persons with Intellectual Disabilities

34

35 SEC. 70. Section 6715 of the Welfare and Institutions Code is
36 amended to read:

37 6715. The court shall inquire into the financial condition of
38 the parent, guardian, or other person charged with the support of
39 a person committed as having an intellectual disability, and if it
40 finds the person able to do so, in whole or in part, it shall make a

1 further order, requiring him or her to pay, to the extent the court
2 considers the person able, the expenses of the proceedings in
3 connection with the investigation, detention, and commitment of
4 the person committed, and the expenses of the committed person's
5 delivery to the institution, and to pay to the county, at stated
6 periods, the sums the court deems proper, during the time the
7 person remains in the institution or on leave of absence to a
8 licensed hospital, facility, or home for the care of those persons.
9 This order may be enforced by further orders as the court deems
10 necessary, and may be varied, altered, or revoked in its discretion.

11 The court shall designate a county officer to keep a record of
12 payments ordered to be made, to receive, receipt for, and record
13 the payments made, to pay over the payments to the county
14 treasurer, to see that the persons ordered to make the payments
15 comply with the orders, and to report to the court any failure to
16 make the payments.

17 SEC. 71. Section 6717 of the Welfare and Institutions Code is
18 amended to read:

19 6717. The cost necessarily incurred in determining whether a
20 person is a fit subject for commitment and securing his or her
21 commitment, is a charge upon the county where he or she is
22 committed. These costs include the fees of witnesses, medical
23 examiners, psychiatrists, and psychologists allowed by the judge
24 ordering the examination. If the person sought to be committed is
25 not an indigent person, the costs of the proceedings are the
26 obligation of that person and shall be paid by him or her, or by his
27 or her guardian or conservator, as provided in Division 4
28 (commencing with Section 1400) of the Probate Code, or shall be
29 paid by persons legally liable for his or her maintenance, unless
30 otherwise ordered by the judge.

31 SEC. 72. Section 6718 of the Welfare and Institutions Code is
32 amended to read:

33 6718. The State Department of Mental Health shall present to
34 the county, not more frequently than monthly, a claim for the
35 amount due the state by reason of commitments of persons with
36 intellectual disabilities, that the county shall process and pay
37 pursuant to the provisions of Chapter 4 (commencing with Section
38 29700) of Division 3 of Title 3 of the Government Code.

1 SEC. 73. The heading of Article 4 (commencing with Section
2 6740) of Chapter 4 of Part 2 of Division 6 of the Welfare and
3 Institutions Code is amended to read:

4

5 Article 4. Persons with Intellectual Disabilities

6

7 SEC. 74. Section 6740 of the Welfare and Institutions Code is
8 amended to read:

9 6740. The court shall attach to the order of commitment of a
10 person with an intellectual disability its findings and conclusions,
11 together with all the social and other data it has bearing upon the
12 case, and the same shall be delivered to the place of commitment
13 with the order.

14 SEC. 75. Section 6741 of the Welfare and Institutions Code is
15 amended to read:

16 6741. The sheriff or probation officer, whichever is designated
17 by the court, may execute the order of commitment with respect
18 to a person with an intellectual disability.

19 In a case in which the probation officer executes the order of
20 commitment, he or she shall be compensated for transporting the
21 person to a state hospital in the amount and manner that a sheriff
22 is compensated for similar services.

23 SEC. 76. Section 7275 of the Welfare and Institutions Code is
24 amended to read:

25 7275. The husband, wife, father, mother, or children of a patient
26 in a state hospital for the mentally disordered, the estates of these
27 persons, and the guardian or conservator and administrator of the
28 estate of the patient shall cause him or her to be properly and
29 suitably cared for and maintained, and shall pay the costs and
30 charges for transportation to a state institution. The husband, wife,
31 father, mother, or children of a patient in a state hospital for the
32 mentally disordered and the administrators of their estates, and the
33 estate of the person shall be liable for his or her care, support, and
34 maintenance in a state institution of which he or she is a patient.
35 The liability of these persons and estates shall be a joint and several
36 liability, and the liability shall exist whether the person has become
37 a patient of a state institution pursuant to the provisions of this
38 code or pursuant to the provisions of Sections 1026, 1368, 1369,
39 1370, and 1372 of the Penal Code.

1 This section does not impose liability for the care of persons
2 with intellectual disabilities in state hospitals.

3 SEC. 77. Section 7351 of the Welfare and Institutions Code is
4 amended to read:

5 7351. Wherever in any provision of this code heretofore or
6 hereafter enacted the term “parole” is used in relation to the release
7 of a patient from a state hospital, it shall be construed to refer to
8 and mean “leave of absence.” A judicially committed patient or
9 patient with an intellectual disability granted a leave of absence
10 on or after July 1, 1969, and a patient on leave of absence as of
11 July 1, 1969, may at any time during the period of the leave of
12 absence be recalled and returned to the hospital.

13 Upon the release of a judicially committed patient as granted by
14 the medical director of a state hospital, on leave of absence or
15 discharge upon any of the grounds provided in this article, in
16 accordance with the rules and regulations prescribed by the
17 department, the superintendent shall issue to or on behalf of the
18 judicially committed patient a document stating the general terms
19 or limitations of the leave of absence, or a certificate stating the
20 general condition of, or the reason for, the discharge of the
21 judicially committed patient.

22 SEC. 78. Section 11014 of the Welfare and Institutions Code
23 is amended to read:

24 11014. To the extent that any provision of this part prohibits
25 the granting of aid to persons confined in a public institution for
26 tuberculosis or mental disease or as a result of the diagnosis of
27 tuberculosis, intellectual disability, or psychosis permitted by
28 federal law, that provision shall be inoperative.

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