

05-08-2013

**DIGEST**

Welfare and Institutions: Assisted Outpatient Treatment Of Mentally Ill Individuals

Amends Welfare and Institutions Code sections 5346, 5347, 5348, 5349, 5349.1, 5349.5 to mandate that counties provide Assisted Outpatient Treatment for individuals with a serious mental illness.

**RESOLUTIONS COMMITTEE RECOMMENDATION**

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Welfare and Institutions Code sections 5346, 5347, 5348, 5349, 5349.1, 5349.5 to mandate that counties provide Assisted Outpatient Treatment for individuals with a serious mental illness. This resolution should be approved in principle because empirical evidence has shown that the provision of Assisted Outpatient Treatment (“AOT”) reduces acts of violence and recidivism by persons who receive such services.

Welfare and Institutions Code sections 5345 *et seq.* (collectively known in California as “Laura’s Law”) allows for court-ordered assisted outpatient treatment and, in some cases, for forced administration of anti-psychotic medication for persons with a serious mental illness and a recent history of psychiatric hospitalizations, jailing, or acts, threats or attempts of serious violent behavior towards self or others. It was enacted in 2002 to allow counties, at their option, to provide AOT services to such persons who present a danger to the public. The reasoning behind the Act is that such persons have been found to be unlikely to live safely in the community without assistance, and the goal is reduce acts of violence and recidivism. Unfortunately, likely due to budgetary constraints, only Nevada County has fully implemented such a program. Comparative state information illustrates the import and effect of such laws. Specifically, New York’s Kendra’s Law is similar to California’s “Laura’s Law,” but it is mandatory for all counties there. A number of studies on the effects of implementation of Kendra’s Law have demonstrated that persons who participate in AOT programs have less later contact with law enforcement, spend less time in prison, and are less likely to engage in acts of violence. Therefore, mandating the provision of AOT services by every California county will likely increase the number of persons who obtain those benefits, with attendant benefits for the community at large.

This resolution does not address how the mandatory AOT services would be funded, which would likely present significant obstacles to success in the Legislature. However, SB 585 (Steinberg) and AB 1367 (Mansoor), both currently pending, would both provide funding from the Mental Health Services Fund created under Proposition 63 to fund Laura’s Law services in those counties that do choose to provide them. Notable too is the fact that Laura’s Law will sunset by its own terms on January 1, 2017, and this resolution does not address that fact.

## TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend Welfare and Institutions sections 5346, 5347, 5348, 5349, 5349.1, 5349.5, to read as follows:

1 § 5346

2 (a) ~~In any county in which services are available as provided in Section 5348,~~ a A court  
3 may order a person who is the subject of a petition filed pursuant to this section to obtain assisted  
4 outpatient treatment if the court finds, by clear and convincing evidence, that the facts stated in  
5 the verified petition filed in accordance with this section are true and establish that all of the  
6 requisite criteria set forth in this section are met, including, but not limited to, each of the  
7 following:

8 (1) The person is 18 years of age or older.

9 (2) The person is suffering from a mental illness as defined in paragraphs (2) and (3) of  
10 subdivision (b) of Section 5600.3.

11 (3) There has been a clinical determination that the person is unlikely to survive safely in  
12 the community without supervision.

13 (4) The person has a history of lack of compliance with treatment for his or her mental  
14 illness, in that at least one of the following is true:

15 (A) The person's mental illness has, at least twice within the last 36 months, been a  
16 substantial factor in necessitating hospitalization, or receipt of services in a forensic or other  
17 mental health unit of a state correctional facility or local correctional facility, not including any  
18 period during which the person was hospitalized or incarcerated immediately preceding the filing  
19 of the petition.

20 (B) The person's mental illness has resulted in one or more acts of serious and violent  
21 behavior toward himself or herself or another, or threats, or attempts to cause serious physical  
22 harm to himself or herself or another within the last 48 months, not including any period in  
23 which the person was hospitalized or incarcerated immediately preceding the filing of the  
24 petition.

25 (5) The person has been offered an opportunity to participate in a treatment plan by the  
26 director of the local mental health department, or his or her designee, provided the treatment plan  
27 includes all of the services described in Section 5348, and the person continues to fail to engage  
28 in treatment.

29 (6) The person's condition is substantially deteriorating.

30 (7) Participation in the assisted outpatient treatment program would be the least  
31 restrictive placement necessary to ensure the person's recovery and stability.

32 (8) In view of the person's treatment history and current behavior, the person is in need of  
33 assisted outpatient treatment in order to prevent a relapse or deterioration that would be likely to  
34 result in grave disability or serious harm to himself or herself, or to others, as defined in Section  
35 5150.

36 (9) It is likely that the person will benefit from assisted outpatient treatment.

37 (b)(1) A petition for an order authorizing assisted outpatient treatment may be filed by the  
38 county mental health director, or his or her designee, in the superior court in the county in which  
39 the person who is the subject of the petition is present or reasonably believed to be present.

40 (2) A request may be made only by any of the following persons to the county mental  
41 health department for the filing of a petition to obtain an order authorizing assisted outpatient  
42 treatment:

43 (A) Any person 18 years of age or older with whom the person who is the subject of the  
44 petition resides.

45 (B) Any person who is the parent, spouse, or sibling or child 18 years of age or older of  
46 the person who is the subject of the petition.

47 (C) The director of any public or private agency, treatment facility, charitable  
48 organization, or licensed residential care facility providing mental health services to the person  
49 who is the subject of the petition in whose institution the subject of the petition resides.

50 (D) The director of a hospital in which the person who is the subject of the petition is  
51 hospitalized.

52 (E) A licensed mental health treatment provider who is either supervising the treatment  
53 of, or treating for a mental illness, the person who is the subject of the petition.

54 (F) A peace officer, parole officer, or probation officer assigned to supervise the person  
55 who is the subject of the petition.

56 (3) Upon receiving a request pursuant to paragraph (2), the county mental health director  
57 shall conduct an investigation into the appropriateness of the filing of the petition. The director  
58 shall file the petition only if he or she determines that there is a reasonable likelihood that all the  
59 necessary elements to sustain the petition can be proven in a court of law by clear and  
60 convincing evidence.

61 (4) The petition shall state all of the following:

62 (A) Each of the criteria for assisted outpatient treatment as set forth in subdivision (a).

63 (B) Facts that support the petitioner's belief that the person who is the subject of the  
64 petition meets each criterion, provided that the hearing on the petition shall be limited to the  
65 stated facts in the verified petition, and the petition contains all the grounds on which the petition  
66 is based, in order to ensure adequate notice to the person who is the subject of the petition and  
67 his or her counsel.

68 (C) That the person who is the subject of the petition is present, or is reasonably believed  
69 to be present, within the county where the petition is filed.

70 (D) That the person who is the subject of the petition has the right to be represented by  
71 counsel in all stages of the proceeding under the petition, in accordance with subdivision (c).

72 (5) The petition shall be accompanied by an affidavit of a licensed mental health  
73 treatment provider designated by the local mental health director who shall state, if applicable,  
74 either of the following:

75 (A) That the licensed mental health treatment provider has personally examined the  
76 person who is the subject of the petition no more than 10 days prior to the submission of the  
77 petition, the facts and reasons why the person who is the subject of the petition meets the criteria  
78 in subdivision (a), that the licensed mental health treatment provider recommends assisted  
79 outpatient treatment for the person who is the subject of the petition, and that the licensed mental  
80 health treatment provider is willing and able to testify at the hearing on the petition.

81 (B) That no more than 10 days prior to the filing of the petition, the licensed mental  
82 health treatment provider, or his or her designee, has made appropriate attempts to elicit the  
83 cooperation of the person who is the subject of the petition, but has not been successful in  
84 persuading that person to submit to an examination, that the licensed mental health treatment  
85 provider has reason to believe that the person who is the subject of the petition meets the criteria

86 for assisted outpatient treatment, and that the licensed mental health treatment provider is willing  
87 and able to examine the person who is the subject of the petition and testify at the hearing on the  
88 petition.

89 (c) The person who is the subject of the petition shall have the right to be represented by  
90 counsel at all stages of a proceeding commenced under this section. If the person so elects, the  
91 court shall immediately appoint the public defender or other attorney to assist the person in all  
92 stages of the proceedings. The person shall pay the cost of the legal services if he or she is able.

93 (d)(1) Upon receipt by the court of a petition submitted pursuant to subdivision (b), the  
94 court shall fix the date for a hearing at a time not later than five days from the date the petition is  
95 received by the court, excluding Saturdays, Sundays, and holidays. The petitioner shall promptly  
96 cause service of a copy of the petition, together with written notice of the hearing date, to be  
97 made personally on the person who is the subject of the petition, and shall send a copy of the  
98 petition and notice to the county office of patient rights, and to the current health care provider  
99 appointed for the person who is the subject of the petition, if any such provider is known to the  
100 petitioner. Continuances shall be permitted only for good cause shown. In granting continuances,  
101 the court shall consider the need for further examination by a physician or the potential need to  
102 provide expeditiously assisted outpatient treatment. Upon the hearing date, or upon any other  
103 date or dates to which the proceeding may be continued, the court shall hear testimony. If it is  
104 deemed advisable by the court, and if the person who is the subject of the petition is available  
105 and has received notice pursuant to this section, the court may examine in or out of court the  
106 person who is the subject of the petition who is alleged to be in need of assisted outpatient  
107 treatment. If the person who is the subject of the petition does not appear at the hearing, and  
108 appropriate attempts to elicit the attendance of the person have failed, the court may conduct the  
109 hearing in the person's absence. If the hearing is conducted without the person present, the court  
110 shall set forth the factual basis for conducting the hearing without the person's presence.

111 (2) The court shall not order assisted outpatient treatment unless an examining licensed  
112 mental health treatment provider, who has personally examined, and has reviewed the available  
113 treatment history of, the person who is the subject of the petition within the time period  
114 commencing 10 days before the filing of the petition, testifies in person at the hearing.

115 (3) If the person who is the subject of the petition has refused to be examined by a  
116 licensed mental health treatment provider, the court may request that the person consent to an  
117 examination by a licensed mental health treatment provider appointed by the court. If the person  
118 who is the subject of the petition does not consent and the court finds reasonable cause to believe  
119 that the allegations in the petition are true, the court may order any person designated under  
120 Section 5150 to take into custody the person who is the subject of the petition and transport him  
121 or her, or cause him or her to be transported, to a hospital for examination by a licensed mental  
122 health treatment provider as soon as is practicable. Detention of the person who is the subject of  
123 the petition under the order may not exceed 72 hours. If the examination is performed by another  
124 licensed mental health treatment provider, the examining licensed mental health treatment  
125 provider may consult with the licensed mental health treatment provider whose affirmation or  
126 affidavit accompanied the petition regarding the issues of whether the allegations in the petition  
127 are true and whether the person meets the criteria for assisted outpatient treatment.

128 (4) The person who is the subject of the petition shall have all of the following rights:

129 (A) To adequate notice of the hearings to the person who is the subject of the petition, as  
130 well as to parties designated by the person who is the subject of the petition.

131 (B) To receive a copy of the court-ordered evaluation.

132 (C) To counsel. If the person has not retained counsel, the court shall appoint a public  
133 defender.

134 (D) To be informed of his or her right to judicial review by habeas corpus.

135 (E) To be present at the hearing unless he or she waives the right to be present.

136 (F) To present evidence.

137 (G) To call witnesses on his or her behalf.

138 (H) To cross-examine witnesses.

139 (I) To appeal decisions, and to be informed of his or her right to appeal.

140 (5)(A) If after hearing all relevant evidence, the court finds that the person who is the  
141 subject of the petition does not meet the criteria for assisted outpatient treatment, the court shall  
142 dismiss the petition.

143 (B) If after hearing all relevant evidence, the court finds that the person who is the subject  
144 of the petition meets the criteria for assisted outpatient treatment, and there is no appropriate and  
145 feasible less restrictive alternative, the court may order the person who is the subject of the  
146 petition to receive assisted outpatient treatment for an initial period not to exceed six months. In  
147 fashioning the order, the court shall specify that the proposed treatment is the least restrictive  
148 treatment appropriate and feasible for the person who is the subject of the petition. The order  
149 shall state the categories of assisted outpatient treatment, as set forth in Section 5348, that the  
150 person who is the subject of the petition is to receive, and the court may not order treatment that  
151 has not been recommended by the examining licensed mental health treatment provider and  
152 included in the written treatment plan for assisted outpatient treatment as required by subdivision  
153 (e). If the person has executed an advance health care directive pursuant to Chapter 2  
154 (commencing with Section 4650) of Part 1 of Division 4.7 of the Probate Code, any directions  
155 included in the advance health care directive shall be considered in formulating the written  
156 treatment plan.

157 (6) If the person who is the subject of a petition for an order for assisted outpatient  
158 treatment pursuant to subparagraph (B) of paragraph (5) of subdivision (d) refuses to participate  
159 in the assisted outpatient treatment program, the court may order the person to meet with the  
160 assisted outpatient treatment team designated by the director of the assisted outpatient treatment  
161 program. The treatment team shall attempt to gain the person's cooperation with treatment  
162 ordered by the court. The person may be subject to a 72-hour hold pursuant to subdivision (f)  
163 only after the treatment team has attempted to gain the person's cooperation with treatment  
164 ordered by the court, and has been unable to do so.

165 (e) Assisted outpatient treatment shall not be ordered unless the licensed mental health  
166 treatment provider recommending assisted outpatient treatment to the court has submitted to the  
167 court a written treatment plan that includes services as set forth in Section 5348, and the court  
168 finds, in consultation with the county mental health director, or his or her designee, all of the  
169 following:

170 (1) That the services are available from the county, or a provider approved by the county,  
171 for the duration of the court order.

172 (2) That the services have been offered to the person by the local director of mental  
173 health, or his or her designee, and the person has been given an opportunity to participate on a  
174 voluntary basis, and the person has failed to engage in, or has refused, treatment.

175 (3) That all of the elements of the petition required by this article have been met.

176 (4) That the treatment plan will be delivered to the county director of mental health, or to  
177 his or her appropriate designee.

178 (f) If, in the clinical judgment of a licensed mental health treatment provider, the person  
179 who is the subject of the petition has failed or has refused to comply with the treatment ordered  
180 by the court, and, in the clinical judgment of the licensed mental health treatment provider,  
181 efforts were made to solicit compliance, and, in the clinical judgment of the licensed mental  
182 health treatment provider, the person may be in need of involuntary admission to a hospital for  
183 evaluation, the provider may request that persons designated under Section 5150 take into  
184 custody the person who is the subject of the petition and transport him or her, or cause him or her  
185 to be transported, to a hospital, to be held up to 72 hours for examination by a licensed mental  
186 health treatment provider to determine if the person is in need of treatment pursuant to Section  
187 5150. Any continued involuntary retention in a hospital beyond the initial 72-hour period shall  
188 be pursuant to Section 5150. If at any time during the 72-hour period the person is determined  
189 not to meet the criteria of Section 5150, and does not agree to stay in the hospital as a voluntary  
190 patient, he or she shall be released and any subsequent involuntary detention in a hospital shall  
191 be pursuant to Section 5150. Failure to comply with an order of assisted outpatient treatment  
192 alone may not be grounds for involuntary civil commitment or a finding that the person who is  
193 the subject of the petition is in contempt of court.

194 (g) If the director of the assisted outpatient treatment program determines that the  
195 condition of the patient requires further assisted outpatient treatment, the director shall apply to  
196 the court, prior to the expiration of the period of the initial assisted outpatient treatment order, for  
197 an order authorizing continued assisted outpatient treatment for a period not to exceed 180 days  
198 from the date of the order. The procedures for obtaining any order pursuant to this subdivision  
199 shall be in accordance with subdivisions (a) to (f), inclusive. The period for further involuntary  
200 outpatient treatment authorized by any subsequent order under this subdivision may not exceed  
201 180 days from the date of the order.

202 (h) At intervals of not less than 60 days during an assisted outpatient treatment order, the  
203 director of the outpatient treatment program shall file an affidavit with the court that ordered the  
204 outpatient treatment affirming that the person who is the subject of the order continues to meet  
205 the criteria for assisted outpatient treatment. At these times, the person who is the subject of the  
206 order shall have the right to a hearing on whether or not he or she still meets the criteria for  
207 assisted outpatient treatment if he or she disagrees with the director's affidavit. The burden of  
208 proof shall be on the director.

209 (i) During each 60-day period specified in subdivision (h), if the person who is the  
210 subject of the order believes that he or she is being wrongfully retained in the assisted outpatient  
211 treatment program against his or her wishes, he or she may file a petition for a writ of habeas  
212 corpus, thus requiring the director of the assisted outpatient treatment program to prove that the  
213 person who is the subject of the order continues to meet the criteria for assisted outpatient  
214 treatment.

215 (j) Any person ordered to undergo assisted outpatient treatment pursuant to this article,  
216 who was not present at the hearing at which the order was issued, may immediately petition the  
217 court for a writ of habeas corpus. Treatment under the order for assisted outpatient treatment may  
218 not commence until the resolution of that petition.

1 §5347

2 ~~(a) In any county in which services are available pursuant to Section 5348, Any person~~  
3 ~~who is determined by the court to be subject to subdivision (a) of Section 5346 may voluntarily~~  
4 ~~enter into an agreement for services under this section.~~

5 (b)(1) After a petition for an order for assisted outpatient treatment is filed, but before the  
6 conclusion of the hearing on the petition, the person who is the subject of the petition, or the  
7 person's legal counsel with the person's consent, may waive the right to an assisted outpatient  
8 treatment hearing for the purpose of obtaining treatment under a settlement agreement, provided  
9 that an examining licensed mental health treatment provider states that the person can survive  
10 safely in the community. The settlement agreement may not exceed 180 days in duration and  
11 shall be agreed to by all parties.

12 (2) The settlement agreement shall be in writing, shall be approved by the court, and shall  
13 include a treatment plan developed by the community-based program that will provide services  
14 that provide treatment in the least restrictive manner consistent with the needs of the person who  
15 is the subject of the petition.

16 (3) Either party may request that the court modify the treatment plan at any time during  
17 the 180-day period.

18 (4) The court shall designate the appropriate county department to monitor the person's  
19 treatment under, and compliance with, the settlement agreement. If the person fails to comply  
20 with the treatment according to the agreement, the designated county department shall notify the  
21 counsel designated by the county and the person's counsel of the person's noncompliance.

22 (5) A settlement agreement approved by the court pursuant to this section shall have the  
23 same force and effect as an order for assisted outpatient treatment pursuant to Section 5346.

24 (6) At a hearing on the issue of noncompliance with the agreement, the written statement  
25 of noncompliance submitted shall be prima facie evidence that a violation of the conditions of  
26 the agreement has occurred. If the person who is the subject of the petition denies any of the  
27 facts as stated in the statement, he or she has the burden of proving by a preponderance of the  
28 evidence that the alleged facts are false.

1 §5348

2 (a) For purposes of subdivision (e) of Section 5346, a each county ~~that chooses to provide~~  
3 ~~assisted outpatient treatment services pursuant to this article~~ shall offer assisted outpatient  
4 treatment services including, but not limited to, all of the following:

5 (1) Community-based, mobile, multidisciplinary, highly trained mental health teams that  
6 use high staff-to-client ratios of no more than 10 clients per team member for those subject to  
7 court-ordered services pursuant to Section 5346.

8 (2) A service planning and delivery process that includes the following:

9 (A) Determination of the numbers of persons to be served and the programs and services  
10 that will be provided to meet their needs. The local director of mental health shall consult with  
11 the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and  
12 family, client, ethnic, and citizen constituency groups as determined by the director.

13 (B) Plans for services, including outreach to families whose severely mentally ill adult is  
14 living with them, design of mental health services, coordination and access to medications,  
15 psychiatric and psychological services, substance abuse services, supportive housing or other  
16 housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain  
17 evaluation strategies, which shall consider cultural, linguistic, gender, age, and special needs of  
18 minorities and those based on any characteristic listed or defined in Section 11135 of the  
19 Government Code in the target populations. Provision shall be made for staff with the cultural  
20 background and linguistic skills necessary to remove barriers to mental health services as a result

21 of having limited-English-speaking ability and cultural differences. Recipients of outreach  
22 services may include families, the public, primary care physicians, and others who are likely to  
23 come into contact with individuals who may be suffering from an untreated severe mental illness  
24 who would be likely to become homeless if the illness continued to be untreated for a substantial  
25 period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as  
26 a result of a severe mental illness.

27 (C) Provision for services to meet the needs of persons who are physically disabled.

28 (D) Provision for services to meet the special needs of older adults.

29 (E) Provision for family support and consultation services, parenting support and  
30 consultation services, and peer support or self-help group support, where appropriate.

31 (F) Provision for services to be client-directed and that employ psychosocial  
32 rehabilitation and recovery principles.

33 (G) Provision for psychiatric and psychological services that are integrated with other  
34 services and for psychiatric and psychological collaboration in overall service planning.

35 (H) Provision for services specifically directed to seriously mentally ill young adults 25  
36 years of age or younger who are homeless or at significant risk of becoming homeless. These  
37 provisions may include continuation of services that still would be received through other funds  
38 had eligibility not been terminated as a result of age.

39 (I) Services reflecting special needs of women from diverse cultural backgrounds,  
40 including supportive housing that accepts children, personal services coordinator therapeutic  
41 treatment, and substance treatment programs that address gender-specific trauma and abuse in  
42 the lives of persons with mental illness, and vocational rehabilitation programs that offer job  
43 training programs free of gender bias and sensitive to the needs of women.

44 (J) Provision for housing for clients that is immediate, transitional, permanent, or all of  
45 these.

46 (K) Provision for clients who have been suffering from an untreated severe mental illness  
47 for less than one year, and who do not require the full range of services, but are at risk of  
48 becoming homeless unless a comprehensive individual and family support services plan is  
49 implemented. These clients shall be served in a manner that is designed to meet their needs.

50 (3) Each client shall have a clearly designated mental health personal services coordinator  
51 who may be part of a multidisciplinary treatment team who is responsible for providing or  
52 assuring needed services. Responsibilities include complete assessment of the client's needs,  
53 development of the client's personal services plan, linkage with all appropriate community  
54 services, monitoring of the quality and follow through of services, and necessary advocacy to  
55 ensure each client receives those services that are agreed to in the personal services plan. Each  
56 client shall participate in the development of his or her personal services plan, and responsible  
57 staff shall consult with the designated conservator, if one has been appointed, and, with the  
58 consent of the client, shall consult with the family and other significant persons as appropriate.

59 (4) The individual personal services plan shall ensure that persons subject to assisted  
60 outpatient treatment programs receive age-appropriate, gender-appropriate, and culturally  
61 appropriate services, to the extent feasible, that are designed to enable recipients to:

62 (A) Live in the most independent, least restrictive housing feasible in the local  
63 community, and, for clients with children, to live in a supportive housing environment that  
64 strives for reunification with their children or assists clients in maintaining custody of their  
65 children as is appropriate.



66 (B) Engage in the highest level of work or productive activity appropriate to their abilities  
67 and experience.

68 (C) Create and maintain a support system consisting of friends, family, and participation  
69 in community activities.

70 (D) Access an appropriate level of academic education or vocational training.

71 (E) Obtain an adequate income.

72 (F) Self-manage their illnesses and exert as much control as possible over both the day-  
73 to-day and long-term decisions that affect their lives.

74 (G) Access necessary physical health care and maintain the best possible physical health.

75 (H) Reduce or eliminate serious antisocial or criminal behavior, and thereby reduce or  
76 eliminate their contact with the criminal justice system.

77 (I) Reduce or eliminate the distress caused by the symptoms of mental illness.

78 (J) Have freedom from dangerous addictive substances.

79 (5) The individual personal services plan shall describe the service array that meets the  
80 requirements of paragraph (4), and to the extent applicable to the individual, the requirements of  
81 paragraph (2).

82 (b) A county that provides assisted outpatient treatment services pursuant to this article  
83 also shall offer the same services on a voluntary basis.

84 (c) Involuntary medication shall not be allowed absent a separate order by the court  
85 pursuant to Sections 5332 to 5336, inclusive.

86 (d) A county that operates an assisted outpatient treatment program pursuant to this  
87 article shall provide data to the State Department of Health Care Services and, based on the data,  
88 the department shall report to the Legislature on or before May 1 of each year in which the  
89 county provides services pursuant to this article. The report shall include, at a minimum, an  
90 evaluation of the effectiveness of the strategies employed by each program operated pursuant to  
91 this article in reducing homelessness and hospitalization of persons in the program and in  
92 reducing involvement with local law enforcement by persons in the program. The evaluation and  
93 report shall also include any other measures identified by the department regarding persons in the  
94 program and all of the following, based on information that is available:

95 (1) The number of persons served by the program and, of those, the number who are able  
96 to maintain housing and the number who maintain contact with the treatment system.

97 (2) The number of persons in the program with contacts with local law enforcement, and  
98 the extent to which local and state incarceration of persons in the program has been reduced or  
99 avoided.

100 (3) The number of persons in the program participating in employment services  
101 programs, including competitive employment.

102 (4) The days of hospitalization of persons in the program that have been reduced or  
103 avoided.

104 (5) Adherence to prescribed treatment by persons in the program.

105 (6) Other indicators of successful engagement, if any, by persons in the program.

106 (7) Victimization of persons in the program.

107 (8) Violent behavior of persons in the program.

108 (9) Substance abuse by persons in the program.

109 (10) Type, intensity, and frequency of treatment of persons in the program.

110 (11) Extent to which enforcement mechanisms are used by the program, when applicable.

111 (12) Social functioning of persons in the program.

- 112 (13) Skills in independent living of persons in the program.  
113 (14) Satisfaction with program services both by those receiving them and by their  
114 families, when relevant.

1 §5349

2 ~~This article shall be operative in those counties in which the county board of supervisors,~~  
3 ~~by resolution, authorizes its application and makes a finding that~~ No voluntary mental health  
4 program serving adults, and no children's mental health program may be reduced as a result of  
5 the implementation of this article. Compliance with this section shall be monitored by the State  
6 Department of Health Care Services as part of its review and approval of county performance  
7 contracts.

1 §5349.1

2 (a) ~~Counties that elect to implement this article,~~ shall, in consultation with the State  
3 Department of Health Care Services, client and family advocacy organizations, and other  
4 stakeholders, develop a training and education program for purposes of improving the delivery of  
5 services to mentally ill individuals who are, or who are at risk of being, involuntarily committed  
6 under this part. This training shall be provided to mental health treatment providers contracting  
7 with participating counties and to other individuals, including, but not limited to, mental health  
8 professionals, law enforcement officials, and certification hearing officers involved in making  
9 treatment and involuntary commitment decisions.

10 (b) The training shall include both of the following:

11 (1) Information relative to legal requirements for detaining a person for involuntary  
12 inpatient and outpatient treatment, including criteria to be considered with respect to determining  
13 if a person is considered to be gravely disabled.

14 (2) Methods for ensuring that decisions regarding involuntary treatment as provided for  
15 in this part direct patients toward the most effective treatment. Training shall include an  
16 emphasis on each patient's right to provide informed consent to assistance.

1 §5349.5

2 (a) This article shall remain in effect only until January 1, 2017, and as of that date is  
3 repealed, unless a later enacted statute that is enacted on or before January 1, 2017, deletes or  
4 extends that date.

5 (b) The State Department of Health Care Services shall submit a report and evaluation of  
6 all counties ~~implementing any component of this article~~ to the Governor and to the Legislature  
7 by July 1, 2015. The evaluation shall include data described in subdivision (d) of Section 5348.

(Proposed new language underlined; language to be deleted stricken.)

**PROPONENT:** San Diego County Bar Association

**STATEMENT OF REASONS**

The Problem: In 2002, California adopted a comprehensive statutory scheme intended to address situations in which there is a serious concern about the safety of a severely mentally ill person who presents a real and present danger to the community. The law was intended to be a comprehensive program providing Assisted Outpatient Treatment (AOT) for individuals with a serious mental illness who are found to be unlikely to live safely in the community without assistance. It was designed to address the problem that a very small percentage of the community that suffers from serious mental illness has a highly disproportionate and demonstrated history towards violence and, in turn, imprisonment and the fact that imprisonment does not solve the underlying problem and can actually exacerbate it by taking the individuals away from support systems. The problem is that the statutes were enacted as optional for counties and most counties have failed to opt-in.

This Solution: This resolution amends Welfare and Institutions Code sections 5346, 5347, 5348, 5349, 5349.1, 5349.5 to give them statewide application. Studies of the program adopted under these sections, in the counties where it has been implemented, and studies from other states demonstrate that AOT services decrease violence in this community of individuals and reduces the amount of time these individuals spent imprisoned. In New York, after a similar law was enacted on a statewide basis, significant reductions in violence and incarceration of these individuals has been documented. In California, where this law has been adopted, there have been substantially similar findings. By giving the program statewide application, severe mentally ill individuals who present a danger to the community will receive outpatient treatment they need and, in turn, reduce the risk of violence to the community from a group of individuals who would otherwise be disproportionately prone to violence.

#### **LEGISLATIVE HISTORY**

Not known

#### **IMPACT STATEMENT**

The proposed resolution does not affect any other law, statute or rule.

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