

There were hundreds of State Assembly and State Senate bills introduced last year that may impact you, your practice and your patients.

Some bills failed. But others became new laws you may not even be aware of . . . And more new laws are coming . . .

AB1237: Evaluators and Evaluation Panels for IST and NGI

Introduced by Assembly Member Brown, February 27, 2015

Current Practice:

Existing law establishes the State Department of State Hospitals for the administration of state hospitals and provides for the involuntary confinement of certain individuals in those state hospitals, including a defendant who has been found mentally incompetent to stand trial or who has been found to be insane at the time he or she committed the crime. **Existing law requires a court, when a defendant pleads not guilty by reason of insanity, or if there is a question as to the defendant's mental competence, to appoint a specified number of psychiatrists or psychologists to examine the defendant.**

AB1237 Would Change:

This bill would require the State Department of State Hospitals **to establish, within the department, a pool of psychiatrists and psychologists with forensic skills,** and would require the department to create evaluation panels from the pool of psychiatrists and psychologists, as specified. The bill would require the court to order an evaluation panel to evaluate a defendant who pleads not guilty by reason of insanity or who may be mentally incompetent. The bill would also make conforming changes.

AB2190: Incompetency and the 180-Day Inpatient Requirement

Approved by the Governor Sept 28, 2014

Practice Prior to Bill:

Existing law required an inpatient stay in a state hospital or other treatment facility of at least 180 days before allowing outpatient status for a person who is charged with and found incompetent on a charge of, convicted of, or found not guilty by reason of insanity of certain crimes, including, but not limited to, murder, mayhem, aggravated mayhem, or any felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

AB2190 Changes:

This bill allows an exemption from the 180-day inpatient requirement in cases where the court finds a suitable placement, including, but not limited to, **an outpatient placement program,** that would provide the person with more appropriate mental health treatment and the court finds that the placement would not pose a danger to the health or safety of others.

Some Specific Text: "This bill would exempt from this 180-day prohibition cases where the court finds a suitable placement, including, but not limited to, an outpatient placement program, that

would provide the person with more appropriate mental health treatment and the court finds that the placement would not pose a danger to the health or safety of others.”

Further, “The bill would require the investigating officer, upon the prior written request of the defendant or the defendant’s counsel, to submit a copy of the report to the court hearing the criminal case, the district attorney, and the county probation department. The bill would require that the conservatorship investigation report and the information contained therein be kept confidential and not be further disclosed to anyone without the prior written consent of the defendant. The bill would, with certain exceptions, require that after disposition of the criminal case, the court place all copies of the report in a sealed file. By increasing the duties of local officials, this bill would impose a state-mandated local program.”

SB1412: Incompetency and Supervision Revocation

Approved by the Governor Sept 28, 2014

Practice Prior to Bill:

Existing law prohibited a person from being tried or sentenced to punishment while that person is mentally incompetent. It also established a process by which a defendant’s mental competency is evaluated and by which the defendant receives treatment, including, if applicable, antipsychotic medication, with the goal of returning the defendant to competency. **Existing law credits time spent by a defendant in a state hospital or other facility as a result of commitment during the process toward the term of any imprisonment for which the defendant is sentenced.**

SB1412 Changes:

This law likewise prohibits revoking probation, mandatory supervision, post-release community supervision, or parole while one is mentally incompetent, along with a process for evaluation and treatment. If a defendant is found mentally incompetent during post-release community supervision or parole revocation hearings, **the new law requires the court to dismiss the pending revocation matter and return the defendant to supervision.**

It then allows the court, using the least restrictive effective option, to modify the terms and conditions of supervision to include appropriate mental health treatment, refer the matter to a local mental health court, reentry court, or other collaborative justice court available for improving the mental health of the defendant, or, if there are no other reasonable alternatives to the establishment of a conservatorship to meet the mental health needs of the defendant, refer the matter to the public guardian to initiate conservatorship proceedings. **By increasing the duties of local officials, including the county mental health director and county public guardian, the new law imposes a new state-mandated local program.**

**** “This law incorporates additional changes to Section 1370 of the Penal Code, proposed by AB 2186 and AB 2625”

Is this getting hard to follow?

AB2186: Extension to Involuntary Medication Orders

Approved by the Governor Sept 28, 2014

Practice Prior to Bill:

Existing law specifies commitment proceedings to include circumstances for the **voluntary and involuntary administration of antipsychotic medication and for a maximum of 21 days.** **Further, the law provides that an order by the court authorizing involuntary medication of the defendant is valid for one year.**

AB2186 Changes:

The new law allows a 14-day extension beyond the 21-day certification period if good cause is shown and requires the court to consider opinions of examining medical professionals during the civil commitment proceedings.

The new law authorizes the district attorney, county counsel (or representative of any facility where a defendant found incompetent to stand trial is committed) to petition the court for an order to administer involuntary medication.

Specific Text: "This bill would exempt from this 180-day prohibition cases where the court finds a suitable placement, including, but not limited to, an outpatient placement program, that would provide the person with more appropriate mental health treatment and the court finds that the placement would not pose a danger to the health or safety of others."

Further, "The bill would require the investigating officer, upon the prior written request of the defendant or the defendant's counsel, to submit a copy of the report to the court hearing the criminal case, the district attorney, and the county probation department. The bill would require that the conservatorship investigation report and the information contained therein be kept confidential and not be further disclosed to anyone without the prior written consent of the defendant. The bill would, with certain exceptions, require that after disposition of the criminal case, the court place all copies of the report in a sealed file. By increasing the duties of local officials, this bill would impose a state-mandated local program."

SB1054: Data Collection for Juvenile Justice Reporting and MIOCR Grants

Approved by the Governor Sept 28, 2014

Practice Prior to Bill:

Existing law establishes, within the Board of State and Community Corrections (BSCC), the California Juvenile Justice Data Working Group which is required, among other things, **to recommend a plan for improving specified juvenile justice reporting requirements, including streamlining and consolidating requirements without sacrificing meaningful data collection, by** December 31, 2014. In addition, the BSCC is required to **create an evaluation design for adult and juvenile mentally ill offender crime reduction (MIOCR) grants that assesses the effectiveness of the program in reducing crime, adult and juvenile offender incarceration and placement levels,** early releases due to jail overcrowding, and local criminal and juvenile justice costs. The BSCC is required to annually submit a report to the Legislature based on the evaluation design, commencing October 1, 2015, with a final report due on December 31, 2019.

SB1054 Changes:

The new law extends, to April 30, 2015, the deadline to submit recommendations, clarifies that the grants be divided equally between adult and juvenile MIOCR grants, deletes that proviso and reduces the term of the grants to funding for 3 years and changes the due date of the final report to December 31, 2018.

The Forensic Mental Health Association needs your help. The Public Policy Committee has openings and the legislative session has just started.

You can find the complete text of these bills, track specific legislation and register for notices of bills that may impact you, your practice and your patients by visiting and registering at <http://leginfo.legislature.ca.gov/faces/home.xhtml>