

Beyond the 72-Hour Hold

A facility may hold a patient on 72-hour detention for not more than 72 consecutive hours. After involuntary detention has begun, the total period of detention, including intervening periods of voluntary treatment, shall not exceed the total maximum period the person could have been detained had they been held continuously on an involuntary basis from the time of initial detention. Time a person was detained in an acute care hospital (up to eight hours) prior to being placed on a 72-hour hold must be credited toward the 72-hour period. A patient admitted to the facility on a 72-hour hold may be released prior to its expiration only if the treating psychiatrist believes further treatment is not required. If another professional person believes the patient should be released but the psychiatrist objects, the medical director must make the decision. (§5152)

- At the expiration of the 72-hour hold, the patient must either be:
 1. Released; or
 2. Referred for further care and treatment on a voluntary basis; or
 3. Certified for 14 days of intensive treatment; or
 4. Placed on a temporary conservatorship; or
 5. Placed on a full LPS conservatorship.

5250: 14-Day Certification

If a patient has been held on a 72-hour detention, they may be additionally held for 14 days of intensive treatment only if all of the following apply:

1. The professional staff of the designated facility has found that the patient meets the criteria of being dangerous to others, self, and/ or gravely disabled due to a mental disorder; and
 2. The facility providing the intensive treatment is designated by the county and agrees to admit the patient; and
 3. The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis. (§5250)
- The Notice of Certification must be signed by two people:

(a) The professional person in charge of the facility, or a physician or licensed psychologist (with five years postgraduate experience) who has been designated by the professional person in charge.

(b) A physician (a board-certified psychiatrist if possible) or a licensed psychologist (with five years postgraduate mental health experience) who has participated in the evaluation. If the physician or psychologist designee in the above (a) is the person who performed the medical evaluation, then the second signatory may be another physician or psychologist or, if one is not available, a social worker or registered nurse who participated in the evaluation. (§5251)

- A copy of the certification must be given to the person certified and to anyone else the person designates, and to the person's attorney or advocate representing the person at the "probable cause" hearing. (§5253)
- The person certified must be informed that they have a right to a certification review and to a judicial hearing and to the assistance of a patient rights advocate or attorney. (§5254)
- Nothing in the law prohibits the patient from being allowed out on a pass provided the professional person in charge of the facility or designee allows it. (§5259)
- The patient may not be further detained on an involuntary basis once they no longer meets the involuntary detention criteria. (§5257)
- If a patient's family or conservator expresses a preference for a particular designated treatment facility, the person initiating the certification shall try, if administratively possible, to comply with that preference. (§5259.4)
- At the conclusion of the 14-day period, a patient must be either:
 1. Released; or
 2. Referred for further care and treatment on a voluntary basis; or
 3. Placed on an additional 14-day detention for suicidal persons; or
 4. Placed on 180-day detention for demonstrably dangerous persons;
or
 5. Placed on 30-day intensive treatment for grave disability; or
 6. Placed on temporary LPS conservatorship. (§5257)
- The law permits a patient to obtain civil damages from any person who knowingly and willfully detains them in violation of these provisions. (§5259.1)

5260: Second Fourteen-Day Certification - Additional Treatment of Suicidal Persons

At the expiration of the 14-day certification, a patient may be detained for a maximum of 14 additional calendar days only if all of the following apply:

1. The patient, as a result of a mental disorder, either threatened or attempted to commit suicide during the 72-hour or 14-day certification period or was detained originally for that reason.
 2. The patient continues to present an imminent threat of suicide as determined by the professional staff of the designated facility.
 3. The facility providing additional intensive treatment is equipped and staffed to provide treatment, and is designated by the county, and agrees to admit the person.
 4. The person has been advised of, but has not accepted voluntary treatment. (§5260)
- All of the provisions for the initial 14-day certification must be followed (see subsection B above), except that a certification review hearing is not required. (§5260-5268) The patient may request a writ. (§5275)
 - Any person who knowingly and willfully detains a patient beyond the legal time limits is liable for civil damages. (§5265)

5270: Thirty-Day Certification - Additional Intensive Treatment for Grave Disability

Upon the completion of a 14-day period of intensive treatment pursuant to Section 5250, the person may be certified for an additional period of not more than 30 days of intensive treatment under both of the following conditions:

- (a) The professional staff of the agency or facility treating the person has found that the person remains gravely disabled as a result of a mental disorder or impairment by chronic alcoholism.
 - (b) The person remains unwilling or unable to accept treatment voluntarily.
- Any person certified for an additional 30 days pursuant to this article shall be provided a certification review hearing in accordance with Section 5256

unless a judicial review is requested pursuant to Article 5 (commencing with Section 5275).

- The professional staff of the agency or facility providing intensive treatment shall analyze the person's condition at intervals of not to exceed 10 days, to determine whether the person continues to meet the criteria established for certification under this section, and shall daily monitor the person's treatment plan and progress. Termination of this certification prior to the 30th day shall be made pursuant to Section 5270.35.
- For a person to be certified under this article, a second notice of certification shall be signed by the professional person in charge of the facility providing intensive treatment to the person and by either a physician who shall, if possible, be a board-qualified psychiatrist, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The physician or psychologist who signs shall have participated in the evaluation and finding referred to in subdivision (a) of Section 5270.15. If the professional person in charge is the physician who performed the medical evaluation and finding, or a psychologist, the second person to sign may be another physician or psychologist, unless one is not available, in which case a social worker or a registered nurse who participated in the evaluation and finding shall sign the notice of certification.
- A second notice of certification is required for all involuntary intensive treatment, pursuant to this article, and shall be in substantially the form indicated in Section 5252. (5270.25)
- Copies of the second notice of certification as set forth in Section 5270.25 shall be filed with the court and personally delivered to the person certified. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, and to the facility providing intensive treatment. (5270.30)
- The person certified shall also be asked to designate any individual who is to be sent a copy of the certification notice. If the person certified is incapable of making the designation at the time of certification, that person shall be given another opportunity to designate when able to do so.
- A certification pursuant to this article (5270) shall be for no more than 30

days of intensive treatment, and shall terminate only as soon as the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person no longer meets the criteria for the certification, or is prepared to voluntarily accept treatment on a referral basis or to remain on a voluntary basis in the facility providing intensive treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is undergoing intensive treatment and there is a collaborative treatment relationship between the psychiatrist and the psychologist, either the psychiatrist or psychologist may authorize the release of the person but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who is undergoing intensive treatment, the person may not be released unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 30 days have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, they shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 30 days have elapsed only if the psychiatrist believes, as a result of the psychiatrist's personal observations, that the person no longer meets the criteria for certification, or is prepared to voluntarily accept treatment on referral or to remain on a voluntary basis in the facility providing intensive treatment. (5270.35.)

- Any person who has been certified for 30 days of intensive treatment under this article, shall be released at the end of 30 days unless one or more of the following is applicable:
 - a. The patient agrees to receive further treatment on a voluntary basis.
 - b. The patient is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).
 - c. The patient is the subject of a petition for post certification treatment of a dangerous person filed pursuant to Article 6 (commencing

with Section 5300).

- Any individual who is knowingly and willfully responsible for detaining a person for more than 30 days in violation of the provisions of Section 5270.35 is liable to that person in civil damages.
- Whenever it is contemplated that a gravely disabled person may need to be detained beyond the end of the 14-day period of intensive treatment and prior to proceeding with an additional 30-day certification, the professional person in charge of the facility shall cause an evaluation to be made, based on the patient's current condition and past history, as to whether it appears that the person, even after up to 30 days of additional treatment, is likely to qualify for appointment of a conservator. If the appointment of a conservator appears likely, the conservatorship referral shall be made during the 14-day period of intensive treatment.
- If it appears that with up to 30 days additional treatment a person is likely to reconstitute sufficiently to obviate the need for appointment of a conservator, then the person may be certified for the additional 30 days.
- Where no conservatorship referral has been made during the 14-day period and where during the 30-day certification it appears that the person is likely to require the appointment of a conservator, then the conservatorship referral shall be made to allow sufficient time for conservatorship investigation and other related procedures. If a temporary conservatorship is obtained, it shall run concurrently with and not consecutively to the 30-day certification period. The conservatorship hearing shall be held by the 30th day of the certification period.
- The maximum involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250 and 5270.15 shall be limited to 47 days. Nothing in this section shall prevent a person from exercising their right to a hearing as stated in Sections 5275 and 5353.

Additional 180-Day Detention for Dangerous Persons Section 5300

At the expiration of the 14-day period of intensive treatment, a person may be detained for up to 180 days of additional treatment if the person, because of a mental disorder, presents a demonstrated danger of substantial physical harm to

others and has:

1. Attempted, inflicted, or made a serious threat of harm to another after having been taken into custody for evaluation or treatment; or
 2. Been taken into custody because of having attempted or inflicted harm to another; or
 3. Made a serious threat of substantial physical harm to another within seven days of being taken into custody. (§5300)
- A person's behavior in the past six years may be considered when determining their current mental condition and demonstrated danger. (§5300.5)
 - Neither conviction of a crime nor amenability to treatment is a necessary prerequisite to establishing a 180-day post certification.
 - The petition must be filed during the person's 14-day certification period by the County District Attorney (unless the county board of supervisors delegates the responsibility to the County Counsel) or the person must be released. (§5301, 5114; *People v. Superior Court*, 200 Cal. App. 3d 1546, 248 Cal. Rptr. 23 1988)