



JUDICIAL COUNCIL  
OF CALIFORNIA

COLLABORATIVE JUSTICE  
COURTS ADVISORY COMMITTEE

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[collabjusticecomm@jud.ca.gov](mailto:collabjusticecomm@jud.ca.gov)

COLLABORATIVE JUSTICE COURTS ADVISORY COMMITTEE

**MINUTES OF OPEN MEETING**

October 20, 2017

9:30 am - 3:30 p.m.

455 Golden Gate Avenue, San Francisco, CA 94102

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**Advisory Body Members Present:** Hon. Richard Vlavianos, Hon. Rogelio T. Flores, Vice-Chair, Mr. Steve Binder, Mr. Scott D. Brown, Hon. Lawrence G. Brown, Mr. Richard Cota, Mr. Mark Gale, Hon. Kathleen Kelly, Hon. Sam Lavorato, Jr., Hon. Elizabeth Lee, Hon. Stephen V. Manley, Ms. Sharon Owsley, Undersheriff Randolph Peshon, Ms. Kulvindar "Rani" Singh, and Dr. Kathleen West.

**Advisory Body Members Absent:** Ms. Jo Ann Allen, Mr. David Brooks, Ms. Deborah Cima, Ms. Sharon Di Pirro-Beard, Mr. Chad Finke, Hon. Eileen C. Moore, Ms. Maria Rocha, Mr. Paul Shapiro, and Hon. Dylan Sullivan.

**Others Present:** Hon. Charles Ervin, Ms. Francine Byrne, Ms. Chelsie Bright, Ms. Jenie Chang, Ms. Charlene Depner, Ms. Tayryn Edwards, Ms. Audrey Fancy, Ms. Bonnie Hough, Mr. Octavio Jimenez, Ms. Tara Lundstrom, Ms. Danielle McCurry, Ms. Sharon Reilly, Mr. Michael Roosevelt, Ms. Angelica Souza, Ms. Donna Strobel, Ms. Nancy Taylor, and Ms. Carrie Zoller.

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**OPEN MEETING**

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**Call to Order and Roll Call**

The chair called the meeting to order at 9:40 a.m., and took roll call. There were no public comments received prior to the meeting.

**Approval of Minutes**

There were no minutes to approve.

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**DISCUSSION AND ACTION ITEMS (ITEMS I-X)**

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**Nancy Taylor**, staff to the committee, announced her retirement at the end of December 2017.

**Item I**

**Presiding Judges Meeting Report**

*Hon. Charles Ervin, Assisting Presiding Judge, Superior Court of Sierra County*

*Hon. Stephen V. Manley, Judge, Superior Court of Santa Clara County*

*Hon. Rogelio R. Flores, Judge, Superior Court of Santa Barbara County*

## Item II

### Education Programs Updates

Michael Roosevelt, Senior Analyst from the Judicial Council Criminal Justice Services Office provided an overview of several trainings and webinars that were held recently, including a webinar series on Adult Drug Court Standards and a Veterans' Mentor Bootcamp. He also mentioned the upcoming Beyond the Bench conference to be held in San Diego, highlighting some workshops with topics relevant to the committee.

**Action:** The Beyond the Bench Conference Registration link and information will be sent to committee.

## Item III

### Policy Subcommittee Legislative Report

Sharon Reilly, Attorney from the Judicial Council Office of Governmental Affairs and Tara Lundstrom, Attorney from the Judicial Council Criminal Justice Services gave an overview on bills that were recently approved that impact collaborative courts.

## Item IV

### Juvenile Subcommittee Report

Hon. Elizabeth Lee, Judge of the Superior Court of San Mateo County gave a summary of the latest projects the subcommittee has been working on.

Chelsie Bright, Supervising Research Analyst, Judicial Council CFCC updated the committee on the publication of the Human Trafficking Toolkit and its implementation and developments on the STAR court evaluation.

Donna Strobel provided a brief summary of the 2017 Youth Court Summit, which was held in June, and also two Youth Court Regional Roundtables that were held in September and November.

Audrey Fancy, Supervising Attorney, provided an update on juvenile competency legislation that has been discussed by the Joint Juvenile Competency Issues Working Group, which was formed in 2014 with members from the Family and Juvenile Law Advisory Committee, the Collaborative Justice Courts Advisory Committee, and the Mental Health Issues Implementation Task Force. This working group drafted legislation to amend Welfare and Institutions Code section 709, which the Judicial Council voted to sponsor in 2015. Assemblyman Obernolte introduced this as [AB 2695](#). On May 27, 2016, the legislation was held by the Assembly Appropriations Committee in the suspense file. In 2017 Assemblyman Obernolte reintroduced the bill as [AB 689](#), on May 27, 2017 that bill was held in the suspense file.

However, Assemblyman Stone introduced [AB 935](#), a bill that also addresses competency and which ultimately incorporated the text developed by the working group. It is anticipated that Assemblymember Stone will introduce a similar bill in 2018 with changes designed to address the Governor's [veto message](#). Judge Elizabeth Lee spoke about the Human Trafficking toolkit that was completed. She thanked Dr. Amy Bacharach, Donna Strobel, and other staff who worked on this project.

**Action:** Research to be done with UCLA on information to be collected from Probation data regarding girls who participated in the STAR program and girls who did not. More human trafficking courts will be opening in Fresno, San Diego, and Sacramento.

## Item V

### **Mental Health Subcommittee Report**

Hon. Stephen V. Manley, Judge of the Superior Court of Santa Clara County gave a summary of the subcommittee latest plans.

Jenie Chang, Attorney from the Judicial Council CFCC gave a brief overview of the work of the subcommittee, including work on competency and the Stepping Up Initiative. Subcommittee members are working collaboratively with the Family and Juvenile Law Committee to develop and provide information on the psychotropic medications for juveniles and mental health treatment options.

Action: There will be a webinar on psychotropic medications for judges, as well the development of a manual, bench cards, or other materials. The subcommittee will be exploring the idea to centralize information in a website or a listserve for resources that contain best practices, promising practices, or other relevant information on mental health courts for judges to access this data.

### **Item VI**

#### **Collaborative Justice Funding**

Marcela Eggleton, Supervising Analyst of the Judicial Council Special Projects gave an overview of the Innovation Grant and how it was distributed to the courts.

Bonnie Hough, Managing Attorney of the Judicial Council's Center for Families, Children and the Courts made a presentation on revisions to Code of Civil Procedure section 384 involving class action lawsuits. This statute provides that any unpaid or uncashed funds (known as cy pres) will be distributed as follows: 25% to the Judicial Council for distribution to the Sargent Shriver Civil Counsel Pilot projects and Collaborative Courts grants; 25% to the Equal Access Fund to be distributed to legal aid agencies; 50% to be distributed to non-profit organizations to support projects that will benefit the class or similarly situated persons, or which address the underlying cause of action; child advocacy programs; or nonprofit organizations providing civil legal services to the indigent. It is uncertain how much money will be received under this new statute. As further information becomes available about the amount collected, staff will provide information for the committee to consider regarding allocations.

Nancy Taylor, Principal Manager of CFCC reminded the committee that the Substance Abuse Focus Grant funding provides a distribution infrastructure that can support the distribution of additional funding if it becomes available.

**Action:** The committee agreed that increasing the SAFG funds would be beneficial to all participating counties.

### **Item VII**

#### **Website Demo**

Chelsie Bright gave an overview on the Veterans website and the alpha site developed with OpenCities. Staff will continue to experiment and test with the site with users to find better solutions for sharing collaborative court information and resources online to ensure a user-friendly experience.

Action: Chelsie will send link to the committee for any suggestions and ideas to make it user friendly and continue to improve the website user experience. <http://jcc.prelive.opencities.com/Home>

### **Item VIII**

#### **Risk/Needs Assessment**

Francine Byrne, Manager introduced the presenters.

Scott Brown, Special Projects Manager from the Superior Court of San Diego County, gave a brief presentation on risk-need assessment and how it can improve justice; he also mentioned recidivism and the factors that lead up to it (prior criminal/violence history, drug involvement, and other factors).

Tara Lundstrom gave an overview on new Judicial Administration standard 4.35 to improve guidelines recommended by the Judicial Council.

Jane Pfeiffer, Senior Program Associate, Center for Children and Family Futures presented on the proper use of risk assessments in Dependency Drug Courts (DDC) and provided an overview on important differences in the use of the tools in DDCs and adult courts.

*Action:*

#### **Item IX**

##### **Effective Treatment Segment**

Kathleen West, MPH, Dr PH, UCLA Department of Social Welfare and USC Department of Preventive Medicine presented on Evidence Based Practices (EBP) in Treatment. Dr. West documented the scope of the problem of drug use in the United States, including increases in Opioid use and deaths. She outlined the steps in using an evidence based approach to addiction and emphasized specific EBPs, such as the use of Medically Assisted Treatment and conducting comprehensive assessments.

*Action:*

#### **Item X**

##### **Homeless Court Study**

Chelsie Bright and Holly Babe Faust updated the committee on the homeless court study currently underway. The report will provide an overview of current models across the state, along with information on the costs and benefits of homeless courts.

*Action:*

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#### **A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 3:25 p.m.

Approved by the advisory body on **enter date**.

Judicial Council of California Standard Agreement  
 Contract No. «Contract» with Superior Court of California, County of «Court»

| Deliverable  | Due Date                        | Firm Fixed Price per Deliverable |
|--|---------------------------------|----------------------------------|
| <p style="text-align: center;"><b>FIRST DELIVERABLE:</b></p> <p><b>For each collaborative justice court receiving these grant funds, submit a Progress Report Form provided by the Judicial Council which will contain the following:</b></p> <ul style="list-style-type: none"> <li>a. Program information, i.e. court type, program establish/start/close date, contact information for each court coordinator and Judicial Officer;</li> <li>b. Collaborative justice court program capacity (maximum number of participants the program can serve <u>or</u> maximum number of educational events that an education-only program can deliver), if applicable;</li> <li>c. Number of participants currently in the collaborative justice court, if applicable;</li> <li>d. Number of successful completions or people served by education program;</li> <li>e. Number of unsuccessful terminations;</li> </ul>   | <p><b>February 28, 2018</b></p> | <p><b>\$«Half».00</b></p>        |
| <p style="text-align: center;"><b>SECOND DELIVERABLE:</b></p> <p><b>For grant period July 1, 2017 to June 30, 2018, for each collaborative justice court receiving these grant funds, submit a Final Report Form provided by the Judicial Council which will contain the following:</b></p> <ul style="list-style-type: none"> <li>a. Program information, i.e. court type, program establish/start/close date, contact information for each court coordinator and Judicial Officer;</li> <li>b. Collaborative justice court program capacity (maximum number of participants the program can serve <u>or</u> maximum number of educational events that an education-only program can deliver), if applicable;</li> <li>c. Number of participants currently in the collaborative justice court, if applicable;</li> <li>d. Number of successful completions or people served by education program;</li> <li>e. Number of unsuccessful terminations;</li> </ul> | <p><b>July 31, 2018</b></p>     | <p><b>\$«Half».00</b></p>        |

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SB-1095 Criminal proceedings: mentally incompetent offenders. (2017-2018)

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Date Published: 02/13/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**SENATE BILL****No. 1095**

Introduced by Senator Anderson

February 13, 2018

An act to amend Section 1370.02 of the Penal Code, relating to crimes.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1095, as introduced, Anderson. Criminal proceedings: mentally incompetent offenders.

Existing law prohibits a person from having his or her probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent. A defendant is mentally incompetent for these purposes if, as a result of mental disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner. If a defendant is found mentally incompetent during postrelease community supervision or parole revocation hearings, existing law requires the court to dismiss the pending revocation matter and return the defendant to supervision, and authorizes the court take other action, including referring the matter to the public guardian of the county of commitment to initiate conservatorship proceedings only if there are no other reasonable alternatives to meet the defendant's mental health needs, as specified.

This bill would delete the authority of the court to dismiss the pending revocation matter and would delete the above-described restriction on the court's authority to order the matter to the public guardian. The bill would establish a process for delivering a defendant who is found mentally incompetent to a public or private treatment facility for up to 180 days or until the parolee's date of discharge, whichever comes first, for the purpose of restoring the defendant's competency, including procedures for involuntarily administering antipsychotic medication.

By increasing the duties of local officials, including the county mental health director and county public guardian, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

**SECTION 1.** Section 1370.02 of the Penal Code is amended to read:

**1370.02.** (a) If the defendant is found mentally competent during a postrelease community supervision or parole revocation hearing, the revocation proceedings shall resume. The formal hearing on the revocation shall occur within a reasonable time after resumption of the proceedings, but ~~in no event may the defendant~~ *a defendant who is found to be mentally competent may not* be detained in custody for over 180 days from the date of arrest.

(b) If the defendant is found mentally incompetent, the court ~~shall dismiss the pending revocation matter and return the defendant to supervision. If the revocation matter is dismissed pursuant to this subdivision, the court~~ may, using the least restrictive option to meet the mental health needs of the defendant, ~~also~~ do any of the following:

(1) Modify the terms and conditions of supervision to include appropriate mental health treatment.

(2) Refer the matter to any local mental health court, reentry court, or other collaborative justice court available for improving the mental health of the defendant.

(3) Refer the matter to the public guardian of the county of commitment to initiate conservatorship proceedings pursuant to Sections 5352 and 5352.5 of the Welfare and Institutions Code. The public guardian shall investigate all available alternatives to conservatorship pursuant to Section 5354 of the Welfare and Institutions Code. ~~The court shall order the matter to the public guardian pursuant to this paragraph only if there are no other reasonable alternatives to the establishment of a conservatorship to meet the mental health needs of the defendant.~~

*(4) Order the defendant to be delivered by the county sheriff to a public or private treatment facility, including a jail restoration of competency program or the community-based residential treatment system established pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code, if the facility has a secured perimeter or a locked and controlled treatment facility, approved by the community program director, to promote the defendant's restoration to mental competence as soon as possible, for up to an additional 180 days from the day the defendant is found by the court to be mentally incompetent, or up to the parolee's date of discharge, whichever comes first, for the purpose of restoring the defendant's competency.*

*(A) The court shall hear and determine whether the defendant lacks the mental capacity to make decisions regarding the administration of antipsychotic medication. The court shall consider opinions in the reports prepared pursuant to subdivision (a) of Section 1369, as applicable to the issue of whether the defendant lacks the capacity to make decisions regarding the administration of antipsychotic medication, and shall proceed, as follows:*

*(i) The court shall hear and determine whether either of the following is true:*

*(I) The defendant lacks the capacity to make decisions regarding the administration of antipsychotic medication, the defendant's mental disorder requires medical treatment with antipsychotic medication, and, if the defendant's mental disorder is not treated with antipsychotic medication, it is probable that serious harm to the physical or mental health of the defendant will result. Probability of serious harm to the physical or mental health of the defendant requires evidence that the defendant is presently suffering adverse effects to his or her physical or mental health, or the defendant has previously suffered these effects as a result of a mental disorder and his or her condition is substantially deteriorating. The fact that a defendant has a diagnosis of a mental disorder does not alone establish the probability of serious harm to the physical or mental health of the defendant.*

*(II) The defendant is a danger to others because he or she has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat to inflict substantial physical harm on another that resulted in his or her being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.*

*(ii) If the court finds either of the conditions described in clause (i) to be true, the court shall issue an order authorizing involuntary administration of antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist at any facility housing the defendant for purposes of this chapter.*

*(iii) In all cases, the treating facility or program may administer medically appropriate antipsychotic medication prescribed by a psychiatrist in an emergency, as described in subdivision (m) of Section 5008 of the Welfare and Institutions Code.*

*(iv) If the court has determined that the defendant has the capacity to make decisions regarding antipsychotic medication, and if the defendant, with the advice of his or her counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist with the defendant's consent. The commitment order shall also indicate that if the defendant withdraws consent for antipsychotic medication after the treating psychiatrist complies with the requirements of subclause (II) of clause (i), the defendant shall be returned to court for a hearing in accordance with this subparagraph regarding whether antipsychotic medication shall be administered involuntarily.*

*(B) The court shall set a review hearing prior to the expiration of the additional 180 day period to review the progress in restoring the defendant's competency. At the review hearing, if the defendant is found mentally competent, the defendant shall be returned to parole supervision, If the defendant's mental competency has not been restored, the court shall dismiss the pending revocation matter and return the defendant to supervision. If the revocation matter is dismissed, the court may, using the least restrictive option to meet the mental health needs of the defendant, proceed with any of the options described in paragraphs (1) to (3), inclusive.*

*(C) The court shall transmit a copy of the order to the Department of Corrections and Rehabilitation, the district attorney's office, and the defendant's counsel.*

(c) (1) Notwithstanding any other law, if a person subject to parole pursuant to Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000 is found mentally incompetent, the court shall order the parolee to undergo treatment pursuant to Section 1370 for restoring the person to competency, except that if the parolee is not restored to competency within the maximum period of confinement and the court dismisses the revocation, the court shall return the parolee to parole supervision.

(2) If the parolee is returned to parole supervision, the court may, using the least restrictive option to meet the mental health needs of the parolee, do any of the following:

(A) Modify the terms and conditions of parole to include appropriate mental health treatment.

(B) Refer the matter to any local mental health court, reentry court, or other collaborative justice court available for improving the mental health of the parolee.

(C) Refer the matter to the public guardian of the county of commitment to initiate conservatorship proceedings pursuant to Sections 5352 and 5352.5 of the Welfare and Institutions Code. The public guardian shall investigate all available alternatives to conservatorship pursuant to Section 5354 of the Welfare and Institutions Code. The court shall order the matter to the public guardian pursuant to this subparagraph only if there are no other reasonable alternatives to the establishment of a conservatorship to meet the mental health needs of the parolee.

(d) If a conservatorship is established for a defendant or parolee pursuant to subdivision (b) or (c), the county or the Department of Corrections and Rehabilitation shall not compassionately release the defendant or parolee or otherwise cause the termination of his or her supervision or parole based on the establishment of that conservatorship.

**SEC. 2.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



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SB-1187 Competence to stand trial. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**SENATE BILL****No. 1187****Introduced by Senator Beall****February 15, 2018**

An act to amend Sections 1369.1, 1370.02, 1375.5, and 4019 of, and to repeal and add Sections 1370, 1370.01, and 1370.1 of, the Penal Code, relating to criminal procedure.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1187, as introduced, Beall. Competence to stand trial.

Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and by which the defendant receives treatment with the goal of returning the defendant to competency. Existing law allows a mentally incompetent defendant to be committed to the State Department of State Hospitals or other public or private treatment facility for a period of 3 years when a felony was committed or 1 year when a misdemeanor was committed or to a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged, whichever is shorter, and requires the defendant to be returned to the committing court after his or her maximum period of commitment. If the defendant is gravely disabled upon his or her return to the committing court, existing law requires the court to order the conservatorship investigator of the county to initiate conservatorship proceedings.

This bill would revise and recast the provisions relating to the evaluation of mental competence to stand trial in various ways, including, most notably, conforming the process whereby a person is involuntarily administered psychotropic medication with other areas of law, reducing the term for commitment to a treatment facility when a felony was committed to the shorter of 2 years or the a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged, and authorizing the court to begin a conservatorship investigation at any time in the process.

Existing law provides that a prisoner, who, for specified reasons, is confined in or committed to a county jail, industrial farm, or road camp, or a city jail, industrial farm, or road camp, shall, for each 4-day period of custody, have 2 days deducted from the prisoner's period of confinement, except as specified.

This bill would apply those provisions to a person who is committed to a facility pending the return of mental competence.

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

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

**SECTION 1.** Section 1369.1 of the Penal Code is amended to read:

**1369.1.** (a) As used in this chapter, "treatment facility" includes a county jail. Upon the concurrence of the county board of supervisors, the county mental health director, and the county sheriff, the jail may be designated to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental ~~disorder,~~ *disorder* pursuant to this chapter. In the case of Madera, Napa, and Santa Clara Counties, the concurrence shall be with the board of supervisors, the county mental health director, and the county sheriff or the chief of corrections. The provisions of ~~Sections 1370, 1370.01, and 1370.02~~ *Section 2603* shall apply to ~~antipsychotic~~ *psychotropic* medications provided in a county jail, provided, however, that the maximum period of time a ~~defendant~~ *person* may be treated in a treatment facility pursuant to this section shall not exceed six months. *The provisions of Sections 5332 to 5337, inclusive, of the Welfare and Institutions Code shall apply to psychotropic medications provided in a treatment facility that is not a county jail.*

*(b) In all cases, the treating hospital, facility, or program may administer medically appropriate psychotropic medication prescribed by a psychiatrist in an emergency, as defined in subdivision (m) of Section 5008 of the Welfare and Institutions Code.*

~~(b)~~

*(c) This section does not abrogate or limit any law enacted to ensure the due process rights set forth in Sell v. United States (2003) 539 U.S. 166.*

**SEC. 2.** Section 1370 of the Penal Code is repealed.

~~1370.(a)(1)(A)If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged or hearing on the alleged violation shall proceed, and judgment may be pronounced.~~

~~(B)If the defendant is found mentally incompetent, the trial, the hearing on the alleged violation, or the judgment shall be suspended until the person becomes mentally competent.~~

~~(i)In the meantime, the court shall order that the mentally incompetent defendant be delivered by the sheriff to a State Department of State Hospitals facility, as defined in Section 4100 of the Welfare and Institutions Code, for the care and treatment of the mentally disordered, as directed by the State Department of State Hospitals, or to any other available public or private treatment facility, including a community-based residential treatment system established pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code if the facility has a secured perimeter or a locked and controlled treatment facility, approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600.~~

~~(ii)However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290, the prosecutor shall determine whether the defendant previously has been found mentally incompetent to stand trial pursuant to this chapter on a charge of a Section 290 offense, or whether the defendant is currently the subject of a pending Section 1368 proceeding arising out of a charge of a Section 290 offense. If either determination is made, the prosecutor shall so notify the court and defendant in writing. After this notification, and opportunity for hearing, the court shall order that the defendant be delivered by the sheriff to a State Department of State Hospitals facility, as directed by the State Department of State Hospitals, or other secure treatment facility for the care and treatment of the mentally disordered unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.~~

~~(iii)If the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290 and the defendant has been denied bail pursuant to subdivision (b) of Section 12 of Article I of the California Constitution because the court has found, based upon clear and convincing evidence, a substantial likelihood that the person's release would result in great bodily harm to others, the court shall order that the defendant be delivered by the sheriff to a State Department of State Hospitals facility, for the care and treatment of the mentally disordered, as directed by the State Department of State Hospitals, unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.~~

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

~~(C)Upon the filing of a certificate of restoration to competence, the court shall order that the defendant be returned to court in accordance with Section 1372. The court shall transmit a copy of its order to the community program director or a designee.~~

~~(D)A defendant charged with a violent felony may not be delivered to a State Department of State Hospitals facility or treatment facility pursuant to this subdivision unless the State Department of State Hospitals facility or treatment facility has a secured perimeter or a locked and controlled treatment facility, and the judge determines that the public safety will be protected.~~

~~(E)For purposes of this paragraph, "violent felony" means an offense specified in subdivision (c) of Section 667.5.~~

~~(F)A defendant charged with a violent felony may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. If the court places a defendant charged with a violent felony on outpatient status, as specified in Section 1600, the court shall serve copies of the placement order on defense counsel, the sheriff in the county where the defendant will be placed, and the district attorney for the county in which the violent felony charges are pending against the defendant.~~

~~(2)Prior to making the order directing that the defendant be committed to the State Department of State Hospitals or other treatment facility or placed on outpatient status, the court shall proceed as follows:~~

~~(A)The court shall order the community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or be committed to the State Department of State Hospitals or to any other treatment facility. A person shall not be admitted to a State Department of State Hospitals facility or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee. The community program director or designee shall evaluate the appropriate placement for the defendant between a State Department of State Hospitals facility or the community-based residential treatment system based upon guidelines provided by the State Department of State Hospitals.~~

~~(B)The court shall hear and determine whether the defendant lacks capacity to make decisions regarding the administration of antipsychotic medication. The court shall consider opinions in the reports prepared pursuant to subdivision (a) of Section 1369, as applicable to the issue of whether the defendant lacks capacity to make decisions regarding the administration of antipsychotic medication, and shall proceed as follows:~~

~~(i)The court shall hear and determine whether any of the following is true:~~

~~(I)The defendant lacks capacity to make decisions regarding antipsychotic medication, the defendant's mental disorder requires medical treatment with antipsychotic medication, and, if the defendant's mental disorder is not treated with antipsychotic medication, it is probable that serious harm to the physical or mental health of the patient will result. Probability of serious harm to the physical or mental health of the defendant requires evidence that the defendant is presently suffering adverse effects to his or her physical or mental health, or the defendant has previously suffered these effects as a result of a mental disorder and his or her condition is substantially deteriorating. The fact that a defendant has a diagnosis of a mental disorder does not alone establish probability of serious harm to the physical or mental health of the defendant.~~

~~(II)The defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another that resulted in his or her being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.~~

~~(III)The people have charged the defendant with a serious crime against the person or property, involuntary administration of antipsychotic medication is substantially likely to render the defendant competent to stand trial, the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner, less intrusive~~

~~treatments are unlikely to have substantially the same results, and antipsychotic medication is in the patient's best medical interest in light of his or her medical condition.~~

~~(ii) If the court finds any of the conditions described in clause (i) to be true, the court shall issue an order authorizing involuntary administration of antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist at any facility housing the defendant for purposes of this chapter. The order shall be valid for no more than one year, pursuant to subparagraph (A) of paragraph (7). The court shall not order involuntary administration of psychotropic medication under subclause (II) of clause (i) unless the court has first found that the defendant does not meet the criteria for involuntary administration of psychotropic medication under subclause (I) of clause (i) and does not meet the criteria under subclause (II) of clause (i).~~

~~(iii) In all cases, the treating hospital, facility, or program may administer medically appropriate antipsychotic medication prescribed by a psychiatrist in an emergency as described in subdivision (m) of Section 5008 of the Welfare and Institutions Code.~~

~~(iv) If the court has determined that the defendant has the capacity to make decisions regarding antipsychotic medication, and if the defendant, with advice of his or her counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist pursuant to the defendant's consent. The commitment order shall also indicate that, if the defendant withdraws consent for antipsychotic medication, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with subparagraphs (C) and (D) regarding whether antipsychotic medication shall be administered involuntarily.~~

~~(v) If the court has determined that the defendant has the capacity to make decisions regarding antipsychotic medication and if the defendant, with advice from his or her counsel, does not consent, the court order for commitment shall indicate that, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with subparagraphs (C) and (D) regarding whether antipsychotic medication shall be administered involuntarily.~~

~~(vi) A report made pursuant to paragraph (1) of subdivision (b) shall include a description of antipsychotic medication administered to the defendant and its effects and side effects, including effects on the defendant's appearance or behavior that would affect the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner. During the time the defendant is confined in a State Department of State Hospitals facility or other treatment facility or placed on outpatient status, either the defendant or the people may request that the court review any order made pursuant to this subdivision. The defendant, to the same extent enjoyed by other patients in the State Department of State Hospitals facility or other treatment facility, shall have the right to contact the patients' rights advocate regarding his or her rights under this section.~~

~~(C) If the defendant consented to antipsychotic medication as described in clause (iv) of subparagraph (B), but subsequently withdraws his or her consent, or, if involuntary antipsychotic medication was not ordered pursuant to clause (v) of subparagraph (B), and the treating psychiatrist determines that antipsychotic medication has become medically necessary and appropriate, the treating psychiatrist shall make efforts to obtain informed consent from the defendant for antipsychotic medication. If informed consent is not obtained from the defendant, and the treating psychiatrist is of the opinion that the defendant lacks capacity to make decisions regarding antipsychotic medication based on the conditions described in subclause (I) or (II) of clause (i) of subparagraph (B), the treating psychiatrist shall certify whether the lack of capacity and any applicable conditions described above exist. That certification shall contain an assessment of the current mental status of the defendant and the opinion of the treating psychiatrist that involuntary antipsychotic medication has become medically necessary and appropriate.~~

~~(D) (i) If the treating psychiatrist certifies that antipsychotic medication has become medically necessary and appropriate pursuant to subparagraph (C), antipsychotic medication may be administered to the defendant for not more than 21 days, provided, however, that, within 72 hours of the certification, the defendant is provided a medication review hearing before an administrative law judge to be conducted at the facility where the defendant is receiving treatment. The treating psychiatrist shall present the case for the certification for involuntary treatment and the defendant shall be represented by an attorney or a patients' rights advocate. The attorney or patients' rights advocate shall be appointed to meet with the defendant no later than one day prior to the medication review hearing to review the defendant's rights at the medication review hearing, discuss the process, answer questions or concerns regarding involuntary medication or the hearing, assist the defendant in preparing for the hearing and advocating for his or her interests at the hearing, review the panel's final determination following the hearing, advise the defendant of his or her right to judicial review of the panel's decision, and~~

~~provide the defendant with referral information for legal advice on the subject. The defendant shall also have the following rights with respect to the medication review hearing:~~

~~(I) To be given timely access to the defendant's records.~~

~~(II) To be present at the hearing, unless the defendant waives that right.~~

~~(III) To present evidence at the hearing.~~

~~(IV) To question persons presenting evidence supporting involuntary medication.~~

~~(V) To make reasonable requests for attendance of witnesses on the defendant's behalf.~~

~~(VI) To a hearing conducted in an impartial and informal manner.~~

~~(ii) If the administrative law judge determines that the defendant either meets the criteria specified in subclause (I) of clause (i) of subparagraph (B), or meets the criteria specified in subclause (II) of clause (i) of subparagraph (B), then antipsychotic medication may continue to be administered to the defendant for the 21-day certification period. Concurrently with the treating psychiatrist's certification, the treating psychiatrist shall file a copy of the certification and a petition with the court for issuance of an order to administer antipsychotic medication beyond the 21-day certification period. For purposes of this subparagraph, the treating psychiatrist shall not be required to pay or deposit any fee for the filing of the petition or other document or paper related to the petition.~~

~~(iii) If the administrative law judge disagrees with the certification, medication may not be administered involuntarily until the court determines that antipsychotic medication should be administered pursuant to this section.~~

~~(iv) The court shall provide notice to the prosecuting attorney and to the attorney representing the defendant, and shall hold a hearing, no later than 18 days from the date of the certification, to determine whether antipsychotic medication should be ordered beyond the certification period.~~

~~(v) If, as a result of the hearing, the court determines that antipsychotic medication should be administered beyond the certification period, the court shall issue an order authorizing the administration of that medication.~~

~~(vi) The court shall render its decision on the petition and issue its order no later than three calendar days after the hearing and, in any event, no later than the expiration of the 21-day certification period.~~

~~(vii) If the administrative law judge upholds the certification pursuant to clause (ii), the court may, for a period not to exceed 14 days, extend the certification and continue the hearing pursuant to stipulation between the parties or upon a finding of good cause. In determining good cause, the court may review the petition filed with the court, the administrative law judge's order, and any additional testimony needed by the court to determine if it is appropriate to continue medication beyond the 21-day certification and for a period of up to 14 days.~~

~~(viii) The district attorney, county counsel, or representative of a facility where a defendant found incompetent to stand trial is committed may petition the court for an order to administer involuntary medication pursuant to the criteria set forth in subclauses (II) and (III) of clause (i) of subparagraph (B). The order is reviewable as provided in paragraph (7).~~

~~(3) When the court orders that the defendant be committed to a State Department of State Hospitals facility or other public or private treatment facility, the court shall provide copies of the following documents prior to the admission of the defendant to the State Department of State Hospitals or other treatment facility where the defendant is to be committed:~~

~~(A) The commitment order, including a specification of the charges.~~

~~(B) A computation or statement setting forth the maximum term of commitment in accordance with subdivision (e).~~

~~(C) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.~~

~~(D) State summary criminal history information.~~

~~(E) Arrest reports prepared by the police department or other law enforcement agency.~~

~~(F) Court-ordered psychiatric examination or evaluation reports.~~

~~(G) The community program director's placement recommendation report.~~

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

~~(I)Medical records.~~

~~(4)When the defendant is committed to a treatment facility pursuant to clause (i) of subparagraph (B) of paragraph (1) or the court makes the findings specified in clause (ii) or (iii) of subparagraph (B) of paragraph (1) to assign the defendant to a treatment facility other than a State Department of State Hospitals facility or other secure treatment facility, the court shall order that notice be given to the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility of any finding of mental incompetence pursuant to this chapter arising out of a charge of a Section 290 offense.~~

~~(5)When directing that the defendant be confined in a State Department of State Hospitals facility pursuant to this subdivision, the court shall commit the patient to the State Department of State Hospitals.~~

~~(6)(A)If the defendant is committed or transferred to the State Department of State Hospitals pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the State Department of State Hospitals facility and the community program director that the defendant be transferred to a public or private treatment facility approved by the community program director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, transfer the defendant to the State Department of State Hospitals or to another public or private treatment facility approved by the community program director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). If either the defendant or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as are used in conducting probation revocation hearings pursuant to Section 1203.2.~~

~~Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the community program director or a designee.~~

~~(B)If the defendant is initially committed to a State Department of State Hospitals facility or secure treatment facility pursuant to clause (ii) or (iii) of subparagraph (B) of paragraph (1) and is subsequently transferred to any other facility, copies of the documents specified in paragraph (3) shall be taken with the defendant to each subsequent facility to which the defendant is transferred. The transferring facility shall also notify the appropriate law enforcement agency or agencies having local jurisdiction at the site of the new facility that the defendant is a person subject to clause (ii) or (iii) of subparagraph (B) of paragraph (1).~~

~~(7)(A)An order by the court authorizing involuntary medication of the defendant shall be valid for no more than one year. The court shall review the order at the time of the review of the initial report and the six-month progress reports pursuant to paragraph (1) of subdivision (b) to determine if the grounds for the authorization remain. In the review, the court shall consider the reports of the treating psychiatrist or psychiatrists and the defendant's patients' rights advocate or attorney. The court may require testimony from the treating psychiatrist and the patients' rights advocate or attorney, if necessary. The court may continue the order authorizing involuntary medication for up to another six months, or vacate the order, or make any other appropriate order.~~

~~(B)Within 60 days before the expiration of the one-year involuntary medication order, the district attorney, county counsel, or representative of any facility where a defendant found incompetent to stand trial is committed may petition the committing court for a renewal, subject to the same conditions and requirements as in subparagraph (A). The petition shall include the basis for involuntary medication set forth in clause (i) of subparagraph (B) of paragraph (2). Notice of the petition shall be provided to the defendant, the defendant's attorney, and the district attorney. The court shall hear and determine whether the defendant continues to meet the criteria set forth in clause (i) of subparagraph (B) of paragraph (2). The hearing on any petition to renew an order for involuntary medication shall be conducted prior to the expiration of the current order.~~

~~(8)For purposes of subparagraph (D) of paragraph (2) and paragraph (7), if the treating psychiatrist determines that there is a need, based on preserving his or her rapport with the patient or preventing harm, the treating psychiatrist may request that the facility medical director designate another psychiatrist to act in the place of the treating psychiatrist. If the medical director of the facility designates another psychiatrist to act pursuant to this~~

~~paragraph, the treating psychiatrist shall brief the acting psychiatrist of the relevant facts of the case and the acting psychiatrist shall examine the patient prior to the hearing.~~

~~(b)(1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the State Department of State Hospitals facility or other treatment facility to which the defendant is confined shall make a written report to the court and the community program director for the county or region of commitment, or a designee, concerning the defendant's progress toward recovery of mental competence and whether the administration of antipsychotic medication remains necessary. If the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the community program director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the community program director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood that the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the State Department of State Hospitals facility or other treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, if the defendant is confined in a treatment facility, the medical director of the State Department of State Hospitals facility or person in charge of the facility shall report in writing to the court and the community program director or a designee regarding the defendant's progress toward recovery of mental competence and whether the administration of antipsychotic medication remains necessary. If the defendant is on outpatient status, after the initial 90-day report, the outpatient treatment staff shall report to the community program director on the defendant's progress toward recovery, and the community program director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court.~~

~~(A) If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c) no later than 10 days following receipt of the report. The court shall transmit a copy of its order to the community program director or a designee.~~

~~(B) If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the medical director of the State Department of State Hospitals facility or other treatment facility to which the defendant is confined shall do both of the following:~~

~~(i) Promptly notify and provide a copy of the report to the defense counsel and the district attorney.~~

~~(ii) Provide a separate notification, in compliance with applicable privacy laws, to the committing county's sheriff that transportation will be needed for the patient.~~

~~(2) If the court has issued an order authorizing the treating facility to involuntarily administer antipsychotic medication to the defendant, the reports made pursuant to paragraph (1) concerning the defendant's progress toward regaining competency shall also consider the issue of involuntary medication. Each report shall include, but is not limited to, all of the following:~~

~~(A) Whether or not the defendant has the capacity to make decisions concerning antipsychotic medication.~~

~~(B) If the defendant lacks capacity to make decisions concerning antipsychotic medication, whether the defendant risks serious harm to his or her physical or mental health if not treated with antipsychotic medication.~~

~~(C) Whether or not the defendant presents a danger to others if he or she is not treated with antipsychotic medication.~~

~~(D) Whether the defendant has a mental illness for which medications are the only effective treatment.~~

~~(E) Whether there are any side effects from the medication currently being experienced by the defendant that would interfere with the defendant's ability to collaborate with counsel.~~

~~(F) Whether there are any effective alternatives to medication.~~

~~(G) How quickly the medication is likely to bring the defendant to competency.~~

~~(H) Whether the treatment plan includes methods other than medication to restore the defendant to competency.~~

~~(I) A statement, if applicable, that no medication is likely to restore the defendant to competency.~~

~~(3) After reviewing the reports, the court shall determine whether or not grounds for the order authorizing involuntary administration of antipsychotic medication still exist and shall do one of the following:~~

~~(A) If the original grounds for involuntary medication still exist, the order authorizing the treating facility to involuntarily administer antipsychotic medication to the defendant shall remain in effect.~~

~~(B) If the original grounds for involuntary medication no longer exist, and there is no other basis for involuntary administration of antipsychotic medication, the order for the involuntary administration of antipsychotic medication shall be vacated.~~

~~(C) If the original grounds for involuntary medication no longer exist, and the report states that there is another basis for involuntary administration of antipsychotic medication, the court shall set a hearing within 21 days to determine whether the order for the involuntary administration of antipsychotic medication shall be vacated or whether a new order for the involuntary administration of antipsychotic medication shall be issued. The hearing shall proceed as set forth in subparagraph (B) of paragraph (2) of subdivision (a).~~

~~(4) Any defendant who has been committed or has been on outpatient status for 18 months and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the community program director or a designee.~~

~~(5) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. The court shall transmit a copy of its order to the community program director or a designee.~~

~~(6) At each review by the court specified in this subdivision, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination. If the court determines that the defendant shall continue to be treated in the State Department of State Hospitals facility or on an outpatient basis, the court shall determine issues concerning administration of antipsychotic medication, as set forth in subparagraph (B) of paragraph (2) of subdivision (a).~~

~~(c)(1) At the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, or the maximum term of imprisonment provided by law for a violation of probation or mandatory supervision, whichever is shorter, but no later than 90 days prior to the expiration of the defendant's term of commitment, a defendant who has not recovered mental competence shall be returned to the committing court. The court shall notify the community program director or a designee of the return and of any resulting court orders.~~

~~(2) Whenever a defendant is returned to the court pursuant to paragraph (1) or (4) of subdivision (b) or paragraph (1) of this subdivision and it appears to the court that the defendant is gravely disabled, as defined in subparagraph (A) or (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 4 of Division 5 of the Welfare and Institutions Code. Hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the community program director or a designee, the sheriff and the district attorney of the county in which criminal charges are pending, and the defendant's counsel of record. The court shall notify the community program director or a designee, the sheriff and district attorney of the county in which criminal charges are pending, and the defendant's counsel of record of the outcome of the conservatorship proceedings.~~

~~(3) If a change in placement is proposed for a defendant who is committed pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall provide notice and an opportunity to be heard with respect to the proposed placement of the defendant to the sheriff and the district attorney of the county in which the criminal charges or revocation proceedings are pending.~~

~~(4) If the defendant is confined in a treatment facility, a copy of any report to the committing court regarding the defendant's progress toward recovery of mental competence shall be provided by the committing court to the prosecutor and to the defense counsel.~~

~~(d) With the exception of proceedings alleging a violation of mandatory supervision, the criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the community program director or a designee. In a proceeding alleging a violation of mandatory supervision, if the person is not placed under a conservatorship as described in paragraph (2) of subdivision (c), or if a conservatorship is terminated, the court shall reinstate mandatory supervision and may modify the terms and conditions of supervision to include appropriate mental health treatment or 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.~~

~~(e) If the criminal action against the defendant is dismissed, the defendant shall be released from commitment ordered under this section, but without prejudice to the initiation of any proceedings that may be appropriate under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).~~

~~(f) As used in this chapter, "community program director" means the person, agency, or entity designated by the State Department of State Hospitals pursuant to Section 1605 of this code and Section 4360 of the Welfare and Institutions Code.~~

~~(g) For the purpose of this section, "secure treatment facility" shall not include, except for State Department of State Hospitals facilities, state developmental centers, and correctional treatment facilities, any facility licensed pursuant to Chapter 2 (commencing with Section 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter 3.2 (commencing with Section 1569) of, Division 2 of the Health and Safety Code, or any community board and care facility.~~

~~(h) This section does not preclude a defendant from filing a petition for habeas corpus to challenge the continuing validity of an order authorizing a treatment facility or outpatient program to involuntarily administer antipsychotic medication to a person being treated as incompetent to stand trial.~~

**SEC. 3.** Section 1370 is added to the Penal Code, to read:

**1370.** (a) If a person is found mentally competent, the criminal process shall resume, the trial on the offense charged may proceed, and judgment may be pronounced.

(b) (1) If a person is found mentally incompetent, the trial or the judgment shall be suspended until the person becomes mentally competent and the person shall be committed to the custody of the State Department of State Hospitals for a period not to exceed the shorter of either two years from the date of the commitment order, or the maximum term of imprisonment for the most serious offense charged in the complaint, information, or indictment.

(2) Following the order of commitment, the court shall proceed as follows:

(A) The court shall provide the following documents to the State Department of State Hospitals:

(i) The order of commitment setting forth the maximum term of commitment and the amount of credit to be deducted from the commitment term.

(ii) The complaint, information, or indictment.

(iii) The committed person's state summary criminal history information.

(iv) Arrest reports pertaining to the charged offense.

(v) Alienist reports or other records considered by the court for a finding of incompetency.

(vi) A statement as to whether the committed person has an order for involuntary medication pursuant to Section 2603 and the expiration date of that order.

(B) When ordering commitment, the court shall order the housing facility to provide the State Department of State Hospitals with any medical records generated.

(C) The court shall direct the community program director to provide a written recommendation as to whether the person will be placed in a state hospital, jail-based treatment facility, outpatient treatment, or other residential facility. The community program director shall provide a recommendation based on guidelines provided by the State Department of State Hospitals and Section 1600 that will promote the person's speedy restoration to mental competence. The court shall set a hearing within 18 judicial days of the commitment order to receive the placement recommendation from the community program director. The community program director shall forward a copy of its recommendation to the court, the prosecution, and defense counsel within 15 judicial days of the commitment order.

(D) If the community program director suspects that the person may have a developmental disability, in lieu of or in addition to suffering from a mental condition, he or she shall inform the court. Upon receiving that notification, the court shall appoint the director of the regional center established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code to examine the committed person. If the committed person is

an existing consumer of regional center services or the regional center determines that the committed person qualifies for regional center services, the court shall proceed as set forth in Section 1370.1.

(E) If the community program director believes that administration of involuntary psychotropic medication is necessary pending the committed person's delivery to a state hospital or jail-based treatment facility, the director shall notify the court and the sheriff's department and may request an evaluation pursuant to Section 2603.

(F) If the community program director believes the person is unlikely to be restored to competency in the foreseeable future, the community program director shall inform the court and notify the conservatorship investigator in the county of commitment. If it appears to the court that the person is gravely disabled, the court shall order the conservatorship investigator in the county of commitment to initiate an investigation pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code and to proceed pursuant to subdivision (f).

(3) If the community program director recommends placement in a state hospital, jail-based treatment facility, or other residential facility, the court shall order the sheriff to transport the person in accordance with the placement recommendation.

(4) A person charged with a violent felony offense, as defined in subdivision (c) of Section 667.5, may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. If the court places a person charged with a violent felony on outpatient status, the court shall serve copies of the placement order on the person's attorney, the sheriff in the county where the person will be placed, and the district attorney for the county in which the violent felony charges are pending.

(5) A person charged with an offense for which registration is required pursuant to Section 290 may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. When a person who is charged with an offense for which registration is required pursuant to Section 290 is committed to outpatient treatment or a treatment facility other than a state hospital or jail-based treatment facility, the court shall give the law enforcement agency with jurisdiction at the treatment facility notice of the finding of mental incompetence arising out of a charge for that offense. The clerk of the court shall notify the Department of Justice, in writing, of a finding of mental incompetence arising from an offense for which registration is required pursuant to Section 290 for inclusion in the person's state summary criminal history information.

(c) While criminal proceedings are suspended under this chapter, at any time when the committed person is confined or placed in a treatment facility, Section 1369.1 shall govern involuntary administration of psychotropic medication. The person, to the same extent enjoyed by other patients in the state hospital or another treatment facility, shall have the right to contact the patients' rights advocate regarding his or her rights under this section.

(d) (1) Within 90 days of the commitment order, and at six-month intervals thereafter, the director of the treatment facility at which the person is placed, or his or her designee, shall make a written report to the court and the community program director concerning the committed person's progress toward recovery of mental competence, including an opinion as to whether a substantial likelihood exists that the committed person will attain competence in the foreseeable future.

(2) If the committed person has not recovered mental competence, but the report required by paragraph (1) states that there is a substantial likelihood that he or she will regain mental competence in the foreseeable future, the committed person shall remain in the treatment facility or on outpatient status. The director of the treatment facility at which the person is placed shall transmit a copy of the report to the court, the community program director, the prosecution, and the committed person's attorney.

(3) If the committed person has not recovered mental competence, and the report required pursuant to paragraph (1) discloses no substantial likelihood that he or she will regain mental competence in the foreseeable future, the medical director of the treatment facility at which the committed person is placed shall transmit a copy of the report to the court, the community program director, the prosecution, the committed person's attorney, and the conservatorship investigator of the committing county. The medical director of the treatment facility at which the person is placed shall further inform the court in its report if the person is gravely disabled. The court shall order that the committed person be returned to the court for proceedings pursuant to subdivision (f) of this section no later than 10 days following receipt of the report. The court shall transmit a copy of its order to the director of the treatment facility at which the person is placed, to the State Department of State Hospitals, and to the sheriff.

(4) At each review by the court required by this section, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination. A person committed to a state hospital or other treatment facility may be placed on outpatient status in accordance with Section 1600. If either the committed person's attorney or the prosecutor choose to contest an order of transfer, the party may request a hearing. At the hearing, the prosecuting attorney or the person's attorney may present evidence bearing on the order of transfer. Prior to making an order for transfer, the court shall notify the committed person, the committed person's attorney of record, the prosecuting attorney, and the community program director.

(5) If a person committed to the State Department of State Hospitals or a secure treatment facility is required to register pursuant to Sections 290 to 290.024, inclusive, and he or she is subsequently transferred to another treatment facility or is placed on outpatient status, the transferring facility shall notify the appropriate law enforcement agency that the person is required to register as a sex offender while residing in California.

(6) If it is determined by the court that treatment for the committed person's mental impairment is not being conducted, the person shall be returned to the committing court. The court shall transmit a copy of its order to the director of the treatment facility at which the committed person is placed.

(e) If, after placement and treatment, the director of the treatment facility determines the committed person is competent, the director shall file a certificate of restoration to competence. Upon the filing of a certificate of restoration to competence, the court shall order that the committed person be returned to court in accordance with Section 1372. The filing of a certificate under this section does not serve to toll or terminate the person's commitment under this chapter.

(f) (1) No later than 90 days prior to the expiration of the committed person's term of commitment, as defined in paragraph (1) of subdivision (b), a committed person who has not recovered mental competence shall be returned to the committing court. The court shall notify the community program director, the prosecuting attorney, and the committed person's attorney of the return and of any resulting court orders.

(2) When a committed person is returned to the court with no substantial likelihood that he or she will regain mental competence in the foreseeable future, and it appears to the court that the person is gravely disabled, the court shall order the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the person pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. The conservatorship investigator shall submit a report and recommendation to the court within 30 days of the order for investigation. Hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the community program director, the sheriff and the district attorney of the county in which criminal charges are pending, and the person's counsel of record.

(3) If the conservatorship investigator determines that the person does not qualify for a conservatorship, the person shall be released on the criminal charges.

(4) If the conservatorship investigator determines that the committed person does qualify for a conservatorship, the committed person may be confined in a designated facility pursuant to civil commitment proceedings pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. The person shall be released on the criminal charges.

(g) At all times during which a person is committed under this chapter, and at all times following the person's discharge from commitment, the criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the person shall be discharged from commitment under this chapter, without prejudice to the initiation of any proceedings that may be appropriate under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the community program director.

(h) For the purposes of this section, the following definitions apply:

(1) "Community program director" means the person, agency, or entity designated by the State Department of State Hospitals for that county or region pursuant to Section 1605, or his or her designee.

(2) "Designated facility" has the same meaning as in subdivision (n) of Section 5008 of the Welfare and Institutions Code. A designated facility does not include a jail.

(3) "Gravely disabled" has the same meaning as in subparagraph (A) or (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code.

(4) "Secure treatment facility" does not include, except for State Department of State Hospitals facilities, state developmental centers and correctional treatment facilities, any facility licensed pursuant to Chapter 2 (commencing with Section 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter 3.2 (commencing with Section 1569) of, Division 2 of the Health and Safety Code, or any community board and care facility.

(i) This section does not preclude a person from filing a petition for habeas corpus to challenge the continuing validity of an order authorizing a treatment facility or outpatient program to involuntarily administer psychotropic medication to a person being treated as incompetent to stand trial.

(j) On or before July 1, 2019, the State Department of State Hospitals shall promulgate regulations governing jail-based treatment facilities. The regulations shall include a detailed statement of patients' rights, similar to that set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

**SEC. 4.** Section 1370.01 of the Penal Code is repealed.

~~1370.01.(a)(1)If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent, the trial, judgment, or hearing on the alleged violation shall be suspended until the person becomes mentally competent, and the court shall order that (A) in the meantime, the defendant be delivered by the sheriff to an available public or private treatment facility approved by the county mental health director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in this section, and (B) upon the filing of a certificate of restoration to competence, the defendant be returned to court in accordance with Section 1372. The court shall transmit a copy of its order to the county mental health director or his or her designee.~~

~~(2)Prior to making the order directing that the defendant be confined in a treatment facility or placed on outpatient status, the court shall proceed as follows:~~

~~(A)The court shall order the county mental health director or his or her designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a treatment facility. No person shall be admitted to a treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or his or her designee. No person shall be admitted to a state hospital under this section unless the county mental health director finds that there is no less restrictive appropriate placement available and the county mental health director has a contract with the State Department of State Hospitals for these placements.~~

~~(B)The court shall hear and determine whether the defendant, with advice of his or her counsel, consents to the administration of antipsychotic medication, and shall proceed as follows:~~

~~(i)If the defendant, with advice of his or her counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist pursuant to the defendant's consent. The commitment order shall also indicate that, if the defendant withdraws consent for antipsychotic medication, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with this subdivision regarding whether antipsychotic medication shall be administered involuntarily.~~

~~(ii)If the defendant does not consent to the administration of medication, the court shall hear and determine whether any of the following is true:~~

~~(1)The defendant lacks capacity to make decisions regarding antipsychotic medication, the defendant's mental disorder requires medical treatment with antipsychotic medication, and, if the defendant's mental disorder is not treated with antipsychotic medication, it is probable that serious harm to the physical or mental health of the patient will result. Probability of serious harm to the physical or mental health of the defendant requires evidence that the defendant is presently suffering adverse effects to his or her physical or mental health, or the defendant has previously suffered these effects as a result of a mental disorder and his or her condition is substantially deteriorating. The fact that a defendant has a diagnosis of a mental disorder does not alone establish probability of serious harm to the physical or mental health of the defendant.~~

~~(11)The defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another that resulted in his or her being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a~~

~~demonstrated danger of inflicting substantial physical harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.~~

~~(III)The people have charged the defendant with a serious crime against the person or property; involuntary administration of antipsychotic medication is substantially likely to render the defendant competent to stand trial; the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner; less-intrusive treatments are unlikely to have substantially the same results; and antipsychotic medication is in the patient's best medical interest in light of his or her medical condition.~~

~~(iii)If the court finds any of the conditions described in clause (ii) to be true, the court shall issue an order authorizing the treatment facility to involuntarily administer antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist. The court shall not order involuntary administration of psychotropic medication under subclause (II) of clause (ii) unless the court has first found that the defendant does not meet the criteria for involuntary administration of psychotropic medication under subclause (I) of clause (ii) and does not meet the criteria under subclause (II) of clause (ii).~~

~~(iv)In all cases, the treating hospital, facility, or program may administer medically appropriate antipsychotic medication prescribed by a psychiatrist in an emergency as described in subdivision (m) of Section 5008 of the Welfare and Institutions Code.~~

~~(v)Any report made pursuant to subdivision (b) shall include a description of any antipsychotic medication administered to the defendant and its effects and side effects, including effects on the defendant's appearance or behavior that would affect the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner. During the time the defendant is confined in a state hospital or other treatment facility or placed on outpatient status, either the defendant or the people may request that the court review any order made pursuant to this subdivision. The defendant, to the same extent enjoyed by other patients in the state hospital or other treatment facility, shall have the right to contact the patients' rights advocate regarding his or her rights under this section.~~

~~(C)If the defendant consented to antipsychotic medication as described in clause (i) of subparagraph (B), but subsequently withdraws his or her consent, or, if involuntary antipsychotic medication was not ordered pursuant to clause (ii) of subparagraph (B), and the treating psychiatrist determines that antipsychotic medication has become medically necessary and appropriate, the treating psychiatrist shall make efforts to obtain informed consent from the defendant for antipsychotic medication. If informed consent is not obtained from the defendant, and the treating psychiatrist is of the opinion that the defendant lacks capacity to make decisions regarding antipsychotic medication as specified in subclause (I) of clause (ii) of subparagraph (B), or that the defendant is a danger to others as specified in subclause (II) of clause (ii) of subparagraph (B), the committing court shall be notified of this, including an assessment of the current mental status of the defendant and the opinion of the treating psychiatrist that involuntary antipsychotic medication has become medically necessary and appropriate. The court shall provide copies of the report to the prosecuting attorney and to the attorney representing the defendant and shall set a hearing to determine whether involuntary antipsychotic medication should be ordered in the manner described in subparagraph (B).~~

~~(3)When the court, after considering the placement recommendation of the county mental health director required in paragraph (2), orders that the defendant be confined in a public or private treatment facility, the court shall provide copies of the following documents which shall be taken with the defendant to the treatment facility where the defendant is to be confined:~~

~~(A)The commitment order, including a specification of the charges.~~

~~(B)A computation or statement setting forth the maximum term of commitment in accordance with subdivision (c).~~

~~(C)A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.~~

~~(D)State summary criminal history information.~~

~~(E)Any arrest reports prepared by the police department or other law enforcement agency.~~

~~(F)Any court-ordered psychiatric examination or evaluation reports.~~

~~(G)The county mental health director's placement recommendation report.~~

~~(4)A person subject to commitment under this section may be placed on outpatient status under the supervision of the county mental health director or his or her designee by order of the court in accordance with the procedures contained in Title 15 (commencing with Section 1600) except that where the term "community program director" appears the term "county mental health director" shall be substituted.~~

~~(5)If the defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to another public or private treatment facility approved by the county mental health director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code. Where either the defendant or the prosecutor chooses to contest the order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as are used in conducting probation revocation hearings pursuant to Section 1203.2.~~

~~Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or his or her designee.~~

~~(b)Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the treatment facility to which the defendant is confined shall make a written report to the court and the county mental health director or his or her designee, concerning the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the county mental health director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the county mental health director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood that the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, where the defendant is confined in a treatment facility, the medical director of the hospital or person in charge of the facility shall report in writing to the court and the county mental health director or a designee regarding the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, after the initial 90 day report, the outpatient treatment staff shall report to the county mental health director on the defendant's progress toward recovery, and the county mental health director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the county mental health director or his or her designee.~~

~~(c)(1)If, at the end of one year from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the misdemeanor complaint, whichever is shorter, the defendant has not recovered mental competence, the defendant shall be returned to the committing court. The court shall notify the county mental health director or his or her designee of the return and of any resulting court orders.~~

~~(2)Whenever any defendant is returned to the court pursuant to subdivision (b) or paragraph (1) of this subdivision and it appears to the court that the defendant is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Any hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the county mental health director or his or her designee and shall notify the county mental health director or his or her designee of the outcome of the proceedings.~~

~~(d)The criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the county mental health director or his or her designee.~~

~~(e)If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but without prejudice to the initiation of any proceedings which may be appropriate under Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.~~

**SEC. 5.** Section 1370.01 is added to the Penal Code, to read:

**1370.01.** (a) If the person is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced.

(b) (1) If the person is found mentally incompetent, the court may dismiss the charges. Ten days' notice shall be given to the prosecution of a motion to dismiss pursuant to this subdivision. The court shall transmit a copy of an order dismissing a misdemeanor to the county mental health director.

(2) If the court does not dismiss the charges as provided in paragraph (1), the trial or judgment shall be suspended until the person becomes mentally competent and the court shall order that the person be committed pursuant to this section for the shorter of one year or the period equal to the maximum term of incarceration provided by law for the most serious offense charged in the misdemeanor complaint. The committed person shall be delivered by the sheriff to an available public or private treatment facility, approved by the county mental health director, that will promote the person's speedy restoration to mental competence, or placed on outpatient status as specified in this section.

(A) Upon issuing the order of commitment, the court shall order the clerk of the court to prepare the commitment packet as provided in subparagraphs (A) and (B) of paragraph (2) of subdivision (b) of Section 1370 and provide it to the county mental health director for review. The court shall direct the county mental health director to provide a written recommendation as to whether the committed person shall undergo inpatient or outpatient treatment. A committed person shall not be admitted to a state hospital or jail-based treatment facility under this section unless the county mental health director finds that there is no less restrictive appropriate placement available and the county mental health director has a contract with the State Department of State Hospitals for that placement. The court shall set a hearing within 18 judicial days of the commitment order for receipt of the placement recommendation from the county mental health director. The county mental health director shall forward a copy of his or her recommendation to the court, prosecution, and defense counsel within 15 judicial days of the commitment order.

(B) If the county mental health director suspects that the person may have a developmental disability, in lieu of or in addition to suffering from a mental condition, he or she shall inform the court. Upon receiving that notification, the court shall appoint the director of the regional center established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, or his or her designee, to examine the person. If the committed person is an existing consumer of regional center services or a regional center determines that the person qualifies for regional center services, the court shall proceed as set forth in Section 1370.1.

(C) If the county mental health director believes that the involuntary administration of psychotropic medication is appropriate pending the committed person's delivery to a treatment facility, he or she shall notify the court and the sheriff's department and may request an evaluation pursuant to Section 2603.

(D) If the county mental health director concludes that the person is unlikely to be restored to competency in the foreseeable future and believes that the person is gravely disabled, the county mental health director shall forward his or her opinion to the court, the county conservator, the prosecution, and the committed person's attorney. The court shall order the conservatorship investigator of the county of commitment of the person to initiate an investigation pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code and shall proceed pursuant to subdivision (f) of this section.

(E) If the county mental health director recommends placement in a state hospital or other residential facility, the court shall order the sheriff to transport the person in accordance with the placement recommendation.

(c) While criminal proceedings are suspended under this section, during any period of time when the committed person is confined or placed in a county jail or other treatment facility, Section 1369.1 shall govern involuntary administration of psychotropic medication. The committed person, to the same extent enjoyed by other patients in the state hospital or other treatment facility, shall have the right to contact the patients' rights advocate regarding his or her rights under this section.

(d) (1) Within 90 days of the commitment order and at six-month intervals thereafter, the county mental health director or the director of the treatment facility at which the person is placed shall make a written report to the court concerning the person's progress toward recovery of mental competence, including an opinion as to whether a substantial likelihood exists that the person will attain competency in the foreseeable future.

(2) If the committed person has not recovered mental competence, but the report required pursuant to paragraph (1) discloses a substantial likelihood that he or she will regain mental competence in the foreseeable future, the person shall remain in the treatment facility or on outpatient status. The county mental health director

or the director of the treatment facility at which the person is placed shall transmit a copy of the report to the court, the prosecution, and the committed person's attorney.

(3) If the committed person has not recovered mental competence, and the report discloses no substantial likelihood that he or she will regain mental competence in the foreseeable future, the county mental health director or the director of the treatment facility at which the person is placed shall transmit a copy of the report to the court, the prosecution, the committed person's attorney, and the conservatorship investigator of the committing county. The county mental health director or the director of the treatment facility at which the person is placed shall further inform the court in its report if the person is gravely disabled. The court shall order that the committed person be returned to court for proceedings pursuant to subdivision (f) no later than 10 days following receipt of the report. The court shall transmit a copy of its order to the county mental health director and to the sheriff.

(4) At each review by the court specified in this section, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination. If either the committed person's attorney or the prosecutor choose to contest an order of transfer, the party may request a hearing. At the hearing, the prosecuting attorney or the committed person's attorney may present evidence bearing on the order of transfer. Prior to making an order for transfer, the court shall notify the committed person, the committed person's attorney of record, the prosecuting attorney, and the county mental health director.

(5) If the court determines that treatment for the committed person's mental impairment is not being conducted, the committed person shall be returned to the committing court. The court shall transmit a copy of its order to the county mental health director.

(e) If, after placement and treatment, the county mental health director or the director of the treatment facility at which the person is placed determines the committed person is competent, the director shall file a certificate of restoration to competence. Upon the filing of a certificate of restoration to competence, the court shall order that the person be returned to court in accordance with Section 1372. The filing of a certificate under this section does not serve to toll or terminate the person's commitment under this chapter.

(f) (1) No later than 30 days prior to the expiration of the person's term of commitment, as defined in paragraph (2) of subdivision (b), a committed person who has not recovered mental competence shall be returned to the committing court. The court shall notify the county mental health director, the prosecution, and the committed person's attorney of the return and of any resulting court orders.

(2) When a committed person is returned to the court after a determination that there is no substantial likelihood of the person being restored to mental competence in the foreseeable future, and it appears to the court that the person is gravely disabled, the court shall order the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the person pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. The conservatorship investigator shall submit a report and recommendation to the court within 30 days of the order for investigation. Hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of a conservatorship investigation to the county mental health director, the sheriff and the district attorney of the county in which criminal charges are pending, and the committed person's counsel of record.

(3) If the conservatorship investigator determines that the person does not qualify for a conservatorship, the person shall be released on the criminal charges.

(4) If the conservatorship investigator determines that the committed person does qualify for a conservatorship, the committed person may be confined in a designated facility pursuant to civil commitment proceedings pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. The person shall be released on the criminal charges.

(g) When a person is committed under this section, and at all times following the person's discharge from commitment, the criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the person shall be discharged from commitment under this section, without prejudice to the initiation of proceedings that may be appropriate under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the county mental health director.



(h) This section does not preclude a person from filing a petition for habeas corpus to challenge the continuing validity of an order authorizing a treatment facility or outpatient program to involuntarily administer psychotropic medication to a person being treated as incompetent to stand trial.

(i) For the purposes of this section, the following definitions apply:

(1) "County mental health director" includes the county mental health director or his or her designee.

(2) "Designated facility" has the same definition as in subdivision (n) of Section 5008 of the Welfare and Institutions Code. A designated facility does not include a jail.

(3) "Gravely disabled" has the same definition as in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code.

**SEC. 6.** Section 1370.02 of the Penal Code is amended to read:

**1370.02.** (a) If the ~~defendant~~ *person* is found mentally competent during a ~~postrelease community supervision or parole revocation hearing, proceeding to revoke probation, mandatory supervision, or postrelease community supervision,~~ the revocation proceedings shall resume. The formal hearing on the revocation shall occur within a reasonable time after resumption of the proceedings, but in no event may the ~~defendant~~ *person* be detained in custody for over 180 days from the date of arrest.

(b) If the ~~defendant~~ *person* is found mentally incompetent, the court shall dismiss the pending revocation matter and return the ~~defendant~~ *person* to supervision. If the revocation matter is dismissed pursuant to this subdivision, the court may, using the least restrictive option to meet the mental health needs of the ~~defendant,~~ *person,* also do any of the following:

(1) Modify the terms and conditions of supervision to include appropriate mental health treatment.

(2) Refer the matter to ~~any~~ *a* local mental health court, reentry court, or other collaborative justice court available for improving the mental health of the ~~defendant,~~ *person.*

(3) Refer the matter to the public guardian of the county of commitment to initiate conservatorship proceedings pursuant to Sections 5352 and 5352.5 of the Welfare and Institutions Code. The public guardian shall investigate all available alternatives to conservatorship pursuant to Section 5354 of the Welfare and Institutions Code. The court shall order the matter to the public guardian pursuant to this paragraph only if there are no other reasonable alternatives to the establishment of a conservatorship to meet the mental health needs of the ~~defendant,~~ *person.*

(c) (1) Notwithstanding any other law, if a person subject to parole pursuant to Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000 is found mentally incompetent, the court shall order the parolee to undergo treatment pursuant to Section ~~1370 for restoring the person to competency, except that if the parolee is not restored to competency within the maximum period of confinement and the court dismisses the revocation, the court shall return the parolee to parole supervision.~~ *1370, or to Section 1370.1 if the person has a developmental disability, for a period not to exceed two years or the amount of time during which the person would otherwise remain subject to parole supervision, whichever is less. At the end of the commitment term, the court shall dismiss the pending revocation matter and return the person to parole supervision, if any time subject to supervision remains. A commitment under this chapter does not toll the running of the period of parole or serve as a basis for extending the person's maximum discharge date.*

(2) If the parolee is returned to parole supervision, the court may, using the least restrictive option to meet the mental health needs of the parolee, do any of the following:

(A) Modify the terms and conditions of parole to include appropriate mental health treatment.

(B) Refer the matter to ~~any~~ *a* local mental health court, reentry court, or other collaborative justice court available for improving the mental health of the parolee.

(C) Refer the matter to the public guardian of the county of commitment to initiate conservatorship proceedings pursuant to Sections 5352 and 5352.5 of the Welfare and Institutions Code. The public guardian shall investigate all available alternatives to conservatorship pursuant to Section 5354 of the Welfare and Institutions Code. The court shall order the matter to the public guardian pursuant to this subparagraph only if there are no other reasonable alternatives to the establishment of a conservatorship to meet the mental health needs of the parolee.

(d) If a conservatorship is established ~~for a defendant or parolee~~ pursuant to subdivision (b) or (c), the county or the Department of Corrections and Rehabilitation shall not compassionately release the ~~defendant or parolee~~

*person* or otherwise cause the termination of his or her supervision or parole based on the establishment of that conservatorship.

**SEC. 7.** Section 1370.1 of the Penal Code is repealed.

~~1370.1.(a)(1)(A)If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged or hearing on the alleged violation shall proceed, and judgment may be pronounced.~~

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

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

~~(ii)However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290, the prosecutor shall determine whether the defendant previously has been found mentally incompetent to stand trial pursuant to this chapter on a charge of a Section 290 offense, or whether the defendant is currently the subject of a pending Section 1368 proceeding arising out of a charge of a Section 290 offense. If either determination is made, the prosecutor shall so notify the court and defendant in writing. After this notification, and opportunity for hearing, the court shall order that the defendant be delivered by the sheriff to a state hospital or other secure treatment facility for the care and treatment of the developmentally disabled unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.~~

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

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

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

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

~~(E)A defendant charged with a violent felony may not be placed in a facility or delivered to a state hospital, developmental center, or residential facility pursuant to this subdivision unless the facility, state hospital, developmental center, or residential facility has a secured perimeter or a locked and controlled treatment facility, and the judge determines that the public safety will be protected.~~

~~(F)For purposes of this paragraph, "violent felony" means an offense specified in subdivision (c) of Section 667.5.~~

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

~~(H)As used in this section, "developmental disability" means a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely and constitutes a substantial~~

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

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

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

~~(A) State summary criminal history information.~~

~~(B) Any arrest reports prepared by the police department or other law enforcement agency.~~

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

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

~~(5)(A) If the defendant is committed or transferred to a state hospital or developmental center pursuant to this section, the court may, upon receiving the written recommendation of the executive director of the state hospital or developmental center and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to that facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or developmental center or to another residential facility approved by the regional center director.~~

~~In the event of dismissal of the criminal action or revocation proceedings before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 4 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.~~

~~The defendant or prosecuting attorney may contest either kind of order of transfer by filing a petition with the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.~~

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

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

~~(b)(1) Within 90 days of admission of a person committed pursuant to subdivision (a), the executive director or designee of the state hospital, developmental center, or other facility to which the defendant is committed, or the outpatient supervisor where the defendant is placed on outpatient status, shall make a written report to the~~

~~committing court and the regional center director or a designee concerning the defendant's progress toward becoming mentally competent. If the defendant has not become mentally competent, but the report discloses a substantial likelihood the defendant will become mentally competent within the next 90 days, the court may order that the defendant shall remain in the state hospital, developmental center, or other facility or on outpatient status for that period of time. Within 150 days of an admission made pursuant to subdivision (a) or if the defendant becomes mentally competent, the executive director or designee of the hospital or developmental center or person in charge of the facility or the outpatient supervisor shall report to the court and the regional center director or his or her designee regarding the defendant's progress toward becoming mentally competent. The court shall provide to the prosecutor and defense counsel copies of all reports under this section. If the report indicates that there is no substantial likelihood that the defendant has become mentally competent, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or designee and to the executive director of the developmental center.~~

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

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

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

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

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

~~(2)(A)Except as provided in subparagraph (B), in the event of dismissal of the criminal charges before the defendant becomes mentally competent, the defendant shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), or to commitment and detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code. If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385. The court shall notify the regional center director and the executive director of the developmental center of any dismissal.~~

~~(B)In revocation proceedings alleging a violation of mandatory supervision in which the defendant remains incompetent upon return to court under subparagraph (A), the defendant shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), or to commitment and detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code. If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the court shall reinstate mandatory supervision and modify the terms and conditions of supervision to include appropriate mental health treatment or 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. Actions alleging a violation of mandatory supervision shall not be subject to dismissal under Section 1385.~~

~~(d)Except as provided in subparagraph (B) of paragraph (2) of subdivision (c), the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges. The court shall transmit a~~

~~copy of any order of dismissal to the regional center director and to the executive director of the developmental center.~~

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

**SEC. 8.** Section 1370.1 is added to the Penal Code, to read:

**1370.1.** (a) If the person is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced.

(b) (1) If the person is found mentally incompetent, has a developmental disability, and is charged with a misdemeanor, the court may dismiss the charges. Ten days' notice shall be given to the prosecution of a motion to dismiss pursuant to this subdivision. The court shall transmit a copy of an order dismissing a misdemeanor to the appropriate regional center.

(2) If the person is found mentally incompetent and the charges are not dismissed, the trial or judgment shall be suspended until the person becomes mentally competent. The person shall be committed for treatment that will promote the speedy attainment of mental competence for a period that is the shorter of two years from the date of the commitment order or the maximum term of imprisonment for the most serious offense charged in the complaint, information, or indictment.

(3) Upon issuing the order of commitment, the court shall order the clerk of the court to prepare the commitment packet required by subparagraphs (A) and (B) of paragraph (2) of subdivision (b) of Section 1370 and provide it to the regional center director. The regional center director shall provide a recommendation as to whether the person should be placed in a state hospital, developmental center, residential facility, or other treatment facility, or placed on outpatient treatment to promote the person's speedy restoration to competence. The court shall set a hearing within 18 judicial days of the commitment order for receipt of the placement recommendations. The regional center director shall forward a copy of the recommendation to the court, prosecution, and defense counsel within 15 judicial days of the commitment order.

(4) If the regional center director recommends placement in a state hospital, developmental center, residential facility, or other treatment facility, the court shall order the sheriff to transport the person in accordance with the placement recommendation.

(5) If the regional center director is of the opinion that the person is not a danger to the health and safety of others while on outpatient treatment and will benefit from that treatment, the court may order the person to undergo outpatient treatment. All of the provisions of Title 15 (commencing with Section 1600) shall apply when a person is placed on outpatient status, except that references to the community program director shall refer to the regional center director, the Director of State Hospitals shall refer to the Director of Developmental Services, and treatment facility shall refer to a regional center.

(6) A person charged with a violent felony, as defined in subdivision (c) of Section 667.5, may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. If the court places the committed person on outpatient status, the court shall serve copies of the placement order on the committed person's attorney, the sheriff in the county where the person will be placed, and the district attorney for the county in which the violent felony charges are pending.

(7) A person charged with an offense for which registration is required pursuant to Section 290 may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. When a person who is charged with an offense for which registration is required pursuant to Section 290 and is committed to outpatient treatment or a facility other than a state hospital or locked developmental center, the court shall notify the law enforcement agency having jurisdiction at the site of the facility of the finding of mental incompetence arising out of that charge. The clerk of the court shall notify the Department of Justice, in writing, of a finding of mental incompetence arising out of an offense for which registration is required pursuant to Section 290 for inclusion in his or her state summary criminal history information.

(8) If the regional center director concludes that the person is unlikely to be restored to competence in the foreseeable future, the court shall proceed pursuant to subdivision (e).

(c) (1) Within 90 days of the commitment order and at six-month intervals thereafter, the director of the state hospital, developmental center, residential facility, or other treatment facility, or the outpatient supervisor, shall

make a written report to the committing court and the regional center director concerning the committed person's progress toward becoming mentally competent, including an opinion as to whether a substantial likelihood exists that the committed person will attain competency in the foreseeable future.

(2) If the committed person has not become mentally competent, but the report required pursuant to paragraph (1) discloses a substantial likelihood that he or she will become mentally competent in the foreseeable future, the court may order that the person remain in the current facility or on outpatient status. The director of the facility at which the person is placed or the outpatient supervisor shall transmit a copy of the report to the court, the prosecution, and the committed person's attorney.

(3) If the committed person has not recovered mental competence, and the report required pursuant to paragraph (1) discloses no substantial likelihood that he or she will regain mental competence in the foreseeable future, the director of the facility at which the person is placed, or the outpatient supervisor, shall transmit a copy of the report to the court, the prosecution, the committed person's attorney, and the conservatorship investigator of the committing county. The court shall order that the committed person be returned to court for proceedings pursuant to subdivision (e) no later than 10 days following receipt of the report. The court shall transmit a copy of its order to the director of the facility at which the committed person is placed or the outpatient supervisor, the regional center director, and the sheriff.

(4) At each review by the court specified in this section, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination. If either the committed person's attorney or the prosecutor chooses to contest an order of transfer, the party may request a hearing. At the hearing, the prosecuting attorney or the committed person's attorney may present evidence bearing on the order of transfer. Prior to making an order for transfer, the court shall notify the committed person, the committed person's attorney of record, the prosecuting attorney, and the regional center.

(5) If the person committed to the state hospital, developmental center, residential facility, or other treatment facility is required to register pursuant to Sections 290 to 290.024, inclusive, and he or she is subsequently transferred to another facility or is placed on outpatient status, the transferring facility shall notify the appropriate law enforcement agency that the person is required to register as a sex offender while residing in California.

(6) If it is determined by the court that treatment for the committed person's mental health disorder or developmental disability is not being conducted, the person shall be returned to the committing court. The court shall transmit a copy of its order to the regional center director.

(d) If, after placement and treatment, the director of the state hospital, developmental center, other treatment facility at which the person is placed, or the outpatient supervisor determines the person is competent, the director of the facility shall file a certificate of restoration to competence. Upon the filing of a certificate of restoration to competence, the court shall order that the person be returned to court in accordance with Section 1372.

(e) (1) No later than 90 days prior to the expiration of the person's term of commitment, as defined in paragraph (2) of subdivision (b), a person who has not become mentally competent shall be returned to the committing court. The court shall notify the regional center director, the prosecuting attorney, and the committed person's attorney of the return and of any resulting court orders.

(2) Whenever a committed person is returned to the court after a determination that there is no substantial likelihood that the committed person will regain mental competence in the foreseeable future, and it appears to the court that the person is gravely disabled, as defined in subparagraph (A) or (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the person pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. The conservatorship investigator shall submit a report and recommendation to the court within 30 days of the order for investigation. Hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of a conservatorship investigation to the regional center director, the sheriff, the district attorney of the county in which criminal charges are pending, and the committed person's counsel of record.

(3) If the conservatorship investigator determines that the committed person does not qualify for a conservatorship, the person shall be released on the criminal charges.

(4) If the conservatorship investigator determines that the committed person does qualify for a conservatorship, the committed person may be confined in a designated facility pursuant to Chapter 3 (commencing with Section

5350) of Part 1 of Division 5 of the Welfare and Institutions Code, a developmental center, or other residential placement. The person shall be released on the criminal charges.

(f) At all times during which a person is committed under this chapter, and at all times following the person's discharge from commitment, the criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the person shall be discharged from commitment under this chapter, without prejudice to the initiation of proceedings that may be appropriate under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the regional center director.

(g) For the purposes of this section, the following definitions apply:

(1) "Designated facility" has the same definition as in subdivision (n) of Section 5008 of the Welfare and Institutions Code. A designated facility does not include a jail.

(2) "Regional center director" means the director of a regional center, established pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, in the area where the commitment is being ordered or his or her designee.

(3) "Residential facility" means a facility that provides 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual and that has been approved for the purposes of housing consumers pursuant to this section by the regional center director.

**SEC. 9.** Section 1375.5 of the Penal Code is amended to read:

**1375.5.** (a) Time spent by a ~~defendant person~~ in a ~~hospital or other treatment~~ facility *or county jail* as a result of ~~a commitment therein as a mentally incompetent pursuant to proceedings under~~ this chapter shall be credited ~~on the term of imprisonment, against the sentence, if any, for which the defendant is sentenced imposed~~ in the *underlying* criminal case ~~which was suspended pursuant to Section 1370, 1370.1, or 1370.01. or revocation matter giving rise to the competency proceedings.~~

(b) As used in this section, "time spent in a ~~hospital or other treatment~~ facility" includes days a ~~defendant person~~ is treated as an outpatient pursuant to Title 15 (commencing with Section 1600) of Part 2.

*(c) A person subject to this chapter shall receive credits pursuant to Section 4019 for all time during which he or she is confined in a county jail and for which he or she is otherwise eligible.*

**SEC. 10.** Section 4019 of the Penal Code, as amended by Section 3 of Chapter 706 of the Statutes of 2016, is amended to read:

**4019.** (a) The provisions of this section shall apply in all of the following cases:

(1) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp ~~or any a~~ city jail, industrial farm, or road camp, including all days of custody from the date of arrest to the date ~~on which the serving of when~~ the sentence commences, under a judgment of imprisonment or of a fine and imprisonment until the fine is paid in a criminal action or proceeding.

(2) When a prisoner is confined in or committed to the county jail, industrial farm, or road camp ~~or any a~~ city jail, industrial farm, or road camp as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence in a criminal action or proceeding.

(3) When a prisoner is confined in or committed to the county jail, industrial farm, or road camp ~~or any a~~ city jail, industrial farm, or road camp for a definite period of time for contempt pursuant to a proceeding other than a criminal action or proceeding.

(4) When a prisoner is confined in a county jail, industrial farm, or road camp ~~or a~~ city jail, industrial farm, or road camp following arrest and prior to the imposition of sentence for a felony conviction.

(5) When a prisoner is confined in a county jail, industrial farm, or road camp ~~or a~~ city jail, industrial farm, or road camp as part of custodial sanction imposed following a violation of postrelease community supervision or parole.

(6) When a prisoner is confined in a county jail, industrial farm, or road camp ~~or a~~ city jail, industrial farm, or road camp as a result of a sentence imposed pursuant to subdivision (h) of Section 1170.

(7) When a prisoner participates in a program pursuant to Section 1203.016 or Section 4024.2. Except for prisoners who have already been deemed eligible to receive credits for participation in a program pursuant to Section 1203.016 prior to January 1, 2015, this paragraph shall apply prospectively.

*(8) When a prisoner is confined in or committed to a county jail treatment facility, as defined in Section 1369.1, in proceedings pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.*

(b) Subject to the provisions of subdivision (d), for each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from his or her period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(c) For each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from his or her period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) This section does not require the sheriff, chief of police, or superintendent of an industrial farm or road camp to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of ~~any~~ an industrial farm or road camp.

(e) A deduction shall not be made under this section unless the person is committed for a period of four days or longer.

(f) It is the intent of the Legislature that if all days are earned under this section, a term of four days will be deemed to have been served for every two days spent in actual custody.

(g) The changes in this section as enacted by the act that added this subdivision shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after the effective date of that act.

(h) The changes to this section enacted by the act that added this subdivision shall apply prospectively and shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.

(i) (1) This section shall not apply, and no credits may be earned, for periods of flash incarceration imposed pursuant to Section 3000.08 or 3454.

(2) Credits earned pursuant to this section for a period of flash incarceration pursuant to Section 1203.35 shall, if the person's probation or mandatory supervision is revoked, count towards the term to be served.

(j) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

**SEC. 11.** Section 4019 of the Penal Code, as added by Section 4 of Chapter 706 of the Statutes of 2016, is amended to read:

**4019.** (a) The provisions of this section shall apply in all of the following cases:

(1) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or ~~any~~ a city jail, industrial farm, or road camp, including all days of custody from the date of arrest to the date ~~on which the serving of~~ when the sentence commences, under a judgment of imprisonment or of a fine and imprisonment until the fine is paid in a criminal action or proceeding.

(2) When a prisoner is confined in or committed to the county jail, industrial farm, or road camp or ~~any~~ a city jail, industrial farm, or road camp as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence in a criminal action or proceeding.

(3) When a prisoner is confined in or committed to the county jail, industrial farm, or road camp or ~~any~~ a city jail, industrial farm, or road camp for a definite period of time for contempt pursuant to a proceeding other than a criminal action or proceeding.

(4) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp following arrest and prior to the imposition of sentence for a felony conviction.



(5) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as part of custodial sanction imposed following a violation of postrelease community supervision or parole.

(6) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a result of a sentence imposed pursuant to subdivision (h) of Section 1170.

(7) When a prisoner participates in a program pursuant to Section 1203.016 or Section 4024.2. Except for prisoners who have already been deemed eligible to receive credits for participation in a program pursuant to Section 1203.016 prior to January 1, 2015, this paragraph shall apply prospectively.

*(8) When a prisoner is confined in or committed to a county jail treatment facility, as defined in Section 1369.1, in proceedings pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.*

(b) Subject to the provisions of subdivision (d), for each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from his or her period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(c) For each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from his or her period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) This section does not require the sheriff, chief of police, or superintendent of an industrial farm or road camp to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of ~~any~~ *an* industrial farm or road camp.

(e) A deduction shall not be made under this section unless the person is committed for a period of four days or longer.

(f) It is the intent of the Legislature that if all days are earned under this section, a term of four days will be deemed to have been served for every two days spent in actual custody.

(g) The changes in this section as enacted by the act that added this subdivision shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after the effective date of that act.

(h) The changes to this section enacted by the act that added this subdivision shall apply prospectively and shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.

(i) This section shall not apply, and no credits may be earned, for periods of flash incarceration imposed pursuant to Section 3000.08 or 3454.

(j) This section shall become operative on January 1, 2021.