

ASSEMBLY BILL

No. 1897

Introduced by Assembly Member Haney

February 12, 2026

An act to amend Sections 2962, 2966, 2970, and 2972 of the Penal Code, relating to mentally disordered offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as introduced, Haney. Mentally disordered offenders: criteria for commitment.

Existing law requires that, as a condition of parole, a prisoner who has a severe mental health disorder be treated by the State Department of State Hospitals if the prisoner meets certain requirements, including, among others, that the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of State Hospitals have evaluated the prisoner and that a chief psychiatrist of the Department of Corrections and Rehabilitation certify to the Board of Parole Hearings that by reason of the prisoner's severe mental health disorder, the prisoner represents a substantial danger of physical harm to others.

This bill would instead require that the above-described mental health professional opine that the prisoner represents a threat of physical harm to others. The bill would require that the prisoner undergo the Historical Clinical Risk Management-20, Version 3 assessment, as specified. The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2962 of the Penal Code is amended to
2 read:

3 2962. As a condition of parole, a prisoner who meets the
4 following criteria shall be provided necessary treatment by the
5 State Department of State Hospitals as follows:

6 (a) (1) The prisoner has a severe mental health disorder that is
7 not in remission or that cannot be kept in remission without
8 treatment.

9 (2) The term “severe mental health disorder” means an illness,
10 disease, or condition that substantially impairs the person’s thought,
11 perception of reality, emotional process, or judgment; or that
12 grossly impairs behavior; or that demonstrates evidence of an acute
13 brain syndrome for which prompt remission, in the absence of
14 treatment, is unlikely. The term “severe mental health disorder,”
15 as used in this section, does not include a personality or adjustment
16 disorder, epilepsy, intellectual disability or other developmental
17 disabilities, or addiction to or abuse of intoxicating substances.

18 (3) The term “remission” means a finding that the overt signs
19 and symptoms of the severe mental health disorder are controlled
20 either by psychotropic medication or psychosocial support. A
21 person “cannot be kept in remission without treatment” if during
22 the year prior to the question being before the Board of Parole
23 Hearings or a trial court, the person has been in remission and has
24 been physically violent, except in self-defense, or has made a
25 serious threat of substantial physical harm upon the person of
26 another so as to cause the target of the threat to reasonably fear
27 for their safety or the safety of their immediate family, or the
28 person has intentionally caused property damage, or has not
29 voluntarily followed the treatment plan. In determining if a person
30 has voluntarily followed the treatment plan, the standard is whether
31 the person has acted as a reasonable person would in following
32 the treatment plan.

33 (b) The severe mental health disorder was one of the causes of,
34 or was an aggravating factor in, the commission of a crime for
35 which the prisoner was sentenced to prison.

36 (c) The prisoner has been in treatment for the severe mental
37 health disorder for 90 days or more within the year prior to the
38 prisoner’s parole or release.

1 (d) (1) Prior to release on parole, the person in charge of treating
2 the prisoner and a practicing psychiatrist or psychologist from the
3 State Department of State Hospitals have evaluated the prisoner
4 at a facility of the Department of Corrections and Rehabilitation,
5 and a chief psychiatrist of the Department of Corrections and
6 Rehabilitation has certified to the Board of Parole Hearings that
7 the prisoner has a severe mental health disorder, that the disorder
8 is not in remission or cannot be kept in remission without treatment,
9 that the severe mental health disorder was one of the causes or was
10 an aggravating factor in the prisoner's criminal behavior, that the
11 prisoner has been in treatment for the severe mental health disorder
12 for 90 days or more within the year prior to the prisoner's parole
13 release day, and that by reason of the prisoner's severe mental
14 health disorder, the prisoner represents a ~~substantial danger~~ *threat*
15 of physical harm to others. *The prisoner shall undergo the*
16 *Historical Clinical Risk Management-20, Version 3 assessment*
17 *as published by the Mental Health, Law, and Policy Institute at*
18 *Simon Fraser University in Canada, in addition to any other test*
19 *or assessment the evaluating professionals deem appropriate.*

20 (A) For prisoners being treated by the State Department of State
21 Hospitals pursuant to Section 2684, the certification shall be by a
22 chief psychiatrist of the Department of Corrections and
23 Rehabilitation, and the evaluation shall be conducted at a state
24 hospital by the person at the state hospital in charge of treating the
25 prisoner and a practicing psychiatrist or psychologist from the
26 Department of Corrections and Rehabilitation.

27 (B) For the evaluation of Department of Corrections and
28 Rehabilitation prisoners who are temporarily housed at a county
29 correctional facility, a county medical facility, or a state-assigned
30 mental health provider, a practicing psychiatrist or psychologist
31 from the State Department of State Hospitals, the Department of
32 Corrections and Rehabilitation, or the Board of Parole Hearings
33 shall be afforded prompt and unimpeded access to the prisoner
34 and their records for the period of confinement at that facility upon
35 submission of current and valid proof of state employment and a
36 departmental letter or memorandum arranging the appointment.

37 (2) If the professionals doing the evaluation pursuant to
38 paragraph (1) do not concur that (A) the prisoner has a severe
39 mental health disorder, (B) that the disorder is not in remission or
40 cannot be kept in remission without treatment, or (C) that the severe

1 mental health disorder was a cause of, or aggravated, the prisoner’s
2 criminal behavior, and a chief psychiatrist has certified the prisoner
3 to the Board of Parole Hearings pursuant to this paragraph, the
4 Board of Parole Hearings shall order a further examination by two
5 independent professionals, as provided for in Section 2978.

6 (3) If at least one of the independent professionals who evaluate
7 the prisoner pursuant to paragraph (2) concurs with the chief
8 psychiatrist’s certification of the issues described in paragraph (2),
9 this subdivision shall be applicable to the prisoner. The
10 professionals appointed pursuant to Section 2978 shall inform the
11 prisoner that the purpose of their examination is not treatment, but
12 to determine if the prisoner meets certain criteria to be involuntarily
13 treated as an offender with a mental health disorder. It is not
14 required that the prisoner appreciate or understand that information.

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

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

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

20 (A) Voluntary manslaughter.

21 (B) Mayhem.

22 (C) Kidnapping in violation of Section 207.

23 (D) A robbery wherein it was charged and proved that the
24 defendant personally used a deadly or dangerous weapon, as
25 provided in subdivision (b) of Section 12022, in the commission
26 of that robbery.

27 (E) Carjacking, as defined in subdivision (a) of Section 215, if
28 it is charged and proved that the defendant personally used a deadly
29 or dangerous weapon, as provided in subdivision (b) of Section
30 12022, in the commission of the carjacking.

31 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
32 of Section 261 or paragraph (1) or (4) of subdivision (a) of former
33 Section 262.

34 (G) Sodomy by force, violence, duress, menace, or fear of
35 immediate and unlawful bodily injury on the victim or another
36 person.

37 (H) Oral copulation by force, violence, duress, menace, or fear
38 of immediate and unlawful bodily injury on the victim or another
39 person.

1 (I) Lewd acts on a child under 14 years of age in violation of
2 Section 288.

3 (J) Continuous sexual abuse in violation of Section 288.5.

4 (K) The offense described in subdivision (a) of Section 289 if
5 the act was accomplished against the victim's will by force,
6 violence, duress, menace, or fear of immediate and unlawful bodily
7 injury on the victim or another person.

8 (L) Arson in violation of subdivision (a) of Section 451, or arson
9 in violation of any other provision of Section 451 or in violation
10 of Section 455 if the act posed a ~~substantial danger~~ *threat* of
11 physical harm to others.

12 (M) A felony in which the defendant used a firearm which use
13 was charged and proved as provided in Section 12022.5, 12022.53,
14 or 12022.55.

15 (N) A violation of Section 18745.

16 (O) Attempted murder.

17 (P) A crime not enumerated in subparagraphs (A) to (O),
18 inclusive, in which the prisoner used force or violence, or caused
19 serious bodily injury as defined in paragraph (4) of subdivision (f)
20 of Section 243.

21 (Q) A crime in which the perpetrator expressly or impliedly
22 threatened another with the use of force or violence likely to
23 produce substantial physical harm in a manner that a reasonable
24 person would believe and expect that the force or violence would
25 be used. For purposes of this subparagraph, substantial physical
26 harm does not require proof that the threatened act was likely to
27 cause great or serious bodily injury.

28 (f) For purposes of meeting the criteria set forth in this section,
29 the existence or nature of the crime, as defined in paragraph (2)
30 of subdivision (e), for which the prisoner has been convicted may
31 be shown with documentary evidence. The details underlying the
32 commission of the offense that led to the conviction, including the
33 use of force or violence, causing serious bodily injury, or the threat
34 to use force or violence likely to produce substantial physical harm,
35 may be shown by documentary evidence, including, but not limited
36 to, preliminary hearing transcripts, trial transcripts, probation and
37 sentencing reports, and evaluations by the State Department of
38 State Hospitals.

39 (g) As used in this chapter, ~~“substantial danger”~~ *“threat* of
40 physical harm” does not require proof of a recent overt act.

1 SEC. 2. Section 2966 of the Penal Code is amended to read:

2 2966. (a) A prisoner may request a hearing before the Board
3 of Parole Hearings, and the board shall conduct a hearing if so
4 requested, for the purpose of proving that the prisoner meets the
5 criteria in Section 2962. At the hearing, the burden of proof shall
6 be on the person or agency who certified the prisoner under
7 subdivision (d) of Section 2962. If the prisoner or any person
8 appearing on the prisoner’s behalf at the hearing requests it, the
9 board shall appoint two independent professionals as provided for
10 in Section 2978. The prisoner shall be informed at the hearing of
11 the right to request a trial pursuant to subdivision (b). The Board
12 of Parole Hearings shall provide a prisoner who requests trial a
13 petition form and instructions for filing the petition.

14 (b) A prisoner who disagrees with the determination of the
15 Board of Parole Hearings that the prisoner meets the criteria of
16 Section 2962 may file in the superior court of the county in which
17 the prisoner is incarcerated or is being treated a petition for a
18 hearing on whether the prisoner, as of the date of the Board of
19 Parole Hearings hearing, met the criteria of Section 2962. The
20 court shall conduct a hearing on the petition within 60 calendar
21 days after the petition is filed, unless either time is waived by the
22 petitioner or the petitioner’s counsel or good cause is shown.
23 Evidence offered for the purpose of proving the prisoner’s behavior
24 or mental status subsequent to the Board of Parole Hearings hearing
25 shall not be considered. The order of the Board of Parole Hearings
26 shall be in effect until the completion of the court proceedings.
27 The court shall advise the petitioner of the right to be represented
28 by an attorney and of the right to a jury trial. The attorney for the
29 petitioner shall be given a copy of the petition and any supporting
30 documents. The hearing shall be a civil hearing. In order to reduce
31 costs, the rules of criminal discovery, as well as civil discovery,
32 shall be applicable. The standard of proof shall be beyond a
33 reasonable doubt, and if the trial is by jury, the jury shall be
34 unanimous in its verdict. The trial shall be by jury unless waived
35 by both the person and the district attorney. The court may, upon
36 stipulation of both parties, receive in evidence the affidavit or
37 declaration of any psychiatrist, psychologist, or other professional
38 person who was involved in the certification and hearing process,
39 or any professional person involved in the evaluation or treatment
40 of the petitioner during the certification process. The court may

1 allow the affidavit or declaration to be read and the contents thereof
2 considered in the rendering of a decision or verdict in any
3 proceeding held pursuant to this subdivision, or subdivision (c),
4 or subdivision (a) of Section 2972. If the court or jury reverses the
5 determination of the Board of Parole Hearings, the court shall stay
6 the execution of the decision for up to 30 days to allow for an
7 orderly release of the prisoner. The court may require the parties
8 to return to the court during those 30 days to ensure that the entities
9 involved in the release of the prisoner have coordinated an exit
10 plan for the prisoner. If the court or jury reverses the determination
11 of the Board of Parole Hearings, the Department of Corrections
12 and Rehabilitation, upon a determination that the individual is
13 eligible for release pursuant to Section 3451, shall notify the
14 probation department of the county of supervision of the pending
15 release within five working days of the court order and work with
16 the county of supervision to coordinate the orderly and safe release
17 of the prisoner.

18 (c) If the Board of Parole Hearings continues a parolee's mental
19 health treatment under Section 2962 when it continues the parolee's
20 parole under Section 3001, the procedures of this section shall
21 only be applicable for the purpose of determining if the parolee
22 has a severe mental health disorder, whether the parolee's severe
23 mental health disorder is not in remission or cannot be kept in
24 remission without treatment, and whether by reason of the parolee's
25 severe mental health disorder, the parolee represents a ~~substantial~~
26 ~~danger~~ *threat* of physical harm to others.

27 SEC. 3. Section 2970 of the Penal Code is amended to read:

28 2970. (a) Not later than 180 days prior to the termination of
29 parole, or release from prison if the prisoner refused to agree to
30 treatment as a condition of parole as required by Section 2962,
31 unless good cause is shown for the reduction of that 180-day
32 period, if the parolee's or prisoner's severe mental health disorder
33 is not in remission or cannot be kept in remission without treatment,
34 the medical director of the state hospital that is treating the parolee,
35 or the community program director in charge of the parolee's
36 outpatient program, or the Secretary of the Department of
37 Corrections and Rehabilitation, shall submit to the district attorney
38 of the county in which the parolee is receiving outpatient treatment,
39 or for those in prison or in a state mental hospital, the district
40 attorney of the county of commitment to prison, a written

1 evaluation on remission. If requested by the district attorney, the
2 written evaluation shall be accompanied by supporting affidavits.

3 (b) The district attorney may then file a petition with the superior
4 court for continued involuntary treatment for one year. The petition
5 shall be accompanied by affidavits specifying that treatment, while
6 the prisoner was released from prison on parole, has been
7 continuously provided by the State Department of State Hospitals
8 either in a state hospital or in an outpatient program. The petition
9 shall also specify that the prisoner has a severe mental health
10 disorder, that the severe mental health disorder is not in remission
11 or cannot be kept in remission if the person's treatment is not
12 continued, and that, by reason of the person's severe mental health
13 disorder, the prisoner represents a ~~substantial danger~~ *threat* of
14 physical harm to others.

15 SEC. 4. Section 2972 of the Penal Code is amended to read:

16 2972. (a) (1) The court shall conduct a hearing on the petition
17 under Section 2970 for continued treatment. The court shall advise
18 the person of the right to be represented by an attorney and of the
19 right to a jury trial. The attorney for the person shall be given a
20 copy of the petition, and any supporting documents. The hearing
21 shall be a civil hearing, however, in order to reduce costs the rules
22 of criminal discovery, as well as civil discovery, shall be
23 applicable.

24 (2) The standard of proof under this section shall be proof
25 beyond a reasonable doubt, and if the trial is by jury, the jury shall
26 be unanimous in its verdict. The trial shall be by jury unless waived
27 by both the person and the district attorney. The trial shall
28 commence no later than 30 calendar days prior to the time the
29 person would otherwise have been released, unless the time is
30 waived by the person or unless good cause is shown.

31 (b) The people shall be represented by the district attorney. If
32 the person is indigent, the county public defender shall be
33 appointed.

34 (c) If the court or jury finds that the patient has a severe mental
35 health disorder, that the patient's severe mental health disorder is
36 not in remission or cannot be kept in remission without treatment,
37 and that by reason of the patient's severe mental health disorder,
38 the patient represents a ~~substantial danger~~ *threat* of physical harm
39 to others, the court shall order the patient recommitted to the
40 facility in which the patient was confined at the time the petition

1 was filed, or recommitted to the outpatient program in which the
2 patient was being treated at the time the petition was filed, or
3 committed to the State Department of State Hospitals if the person
4 was in prison. The commitment shall be for a period of one year
5 from the date of termination of parole or a previous commitment
6 or the scheduled date of release from prison as specified in Section
7 2970. Time spent on outpatient status, except when placed in a
8 locked facility at the direction of the outpatient supervisor, shall
9 not count as actual custody and shall not be credited toward the
10 person's maximum term of commitment or toward the person's
11 term of extended commitment.

12 (d) A person shall be released on outpatient status if the
13 committing court finds that there is reasonable cause to believe
14 that the committed person can be safely and effectively treated on
15 an outpatient basis. Except as provided in this subdivision, the
16 provisions of Title 15 (commencing with Section 1600) of Part 2
17 apply to persons placed on outpatient status pursuant to this
18 paragraph. The standard for revocation under Section 1609 is that
19 the person cannot be safely and effectively treated on an outpatient
20 basis.

21 (e) Prior to the termination of a commitment under this section,
22 a petition for recommitment may be filed to determine whether
23 the patient's severe mental health disorder is not in remission or
24 cannot be kept in remission without treatment, and whether by
25 reason of the patient's severe mental health disorder, the patient
26 represents a ~~substantial danger~~ *threat* of physical harm to others.
27 The recommitment proceeding shall be conducted in accordance
28 with the provisions of this section.

29 (f) A commitment under this article places an affirmative
30 obligation on the treatment facility to provide treatment for the
31 underlying causes of the person's mental health disorder.

32 (g) Except as provided in this subdivision, the person committed
33 shall be considered to be an involuntary mental health patient and
34 shall be entitled to those rights set forth in Article 7 (commencing
35 with Section 5325) of Chapter 2 of Part 1 of Division 5 of the
36 Welfare and Institutions Code. Commencing January 1, 1986, the
37 State Department of Mental Health, or its successor, the State
38 Department of State Hospitals, may adopt regulations to modify
39 those rights as is necessary in order to provide for the reasonable
40 security of the inpatient facility in which the patient is being held.

- 1 This subdivision and the regulations adopted pursuant thereto shall
- 2 become operative on January 1, 1987, except that regulations may
- 3 be adopted prior to that date.

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