

# Admission and Community Re-entry Processes at State Residential Facilities:

A Guide to Statutory Requirements, Judicial Findings (Case Law)  
and Administrative Procedures in California

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California Department of Developmental Services  
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# 1. INTRODUCTION

## California's State Residential Facilities

The California Department of Developmental Services (DDS) supports a State Residential Facilities system consisting of five State Developmental Centers and two smaller, more recently created state-operated 24-hour facilities. The five developmental centers are licensed and certified acute care hospitals serving individuals with developmental disabilities in distinct parts licensed and certified as Nursing Facility (NF) and Intermediate Care Facility/Developmentally Disabled (ICF/DD) services. The two smaller facilities are licensed as ICF/DD facilities. All seven are termed "State Residential Facilities," and for the purposes of this guide all are included in any reference in statute to a "state hospital" or "developmental center."

State Residential Facilities (as of 3/10/2004)		
Name	Location	Resident Population
Agnews Developmental Center	Santa Clara County	400
Fairview Developmental Center	Orange County	741
Lanterman Developmental Center	Los Angeles County	600
Porterville Developmental Center*	Tulare County	782
Sonoma Developmental Center	Sonoma County	802
Additional State-Operated ICF/MR Facilities		
Sierra Vista State Facility	Sutter County	49
Canyon Springs State Facility	Riverside County	51
TOTAL		3,425
*Includes secure treatment population of 294 individuals.		

These facilities provide intensive training and supervision to individuals whose needs cannot readily be met by available private community-based services. As 24-hour facilities, these state institutions address all aspects of individuals' lives. This includes residential services, skill training, specialized health-care and other therapies, as well as leisure and recreational opportunities. Their primary mission is to provide habilitation and training services that are designed to increase residents' levels of independence and functioning skills, ability to control their environment, and ability to live in community settings. These services are supplemented, as needed, with medical, dental, nursing, and a wide variety of other specialized services such as physical therapy, occupational therapy, speech therapy, and language development.

## **A Preference for Community-Based Living and Service Options**

For years DDS policy has been grounded in the conviction that large and necessarily segregated institutions should never be used where effective community-based service and support alternatives exist. Based on a general social consensus, this policy has guided efforts to reduce the developmental center population through development of additional resources for community-based living arrangements, services, and supports. In 1993, a landmark settlement agreement in the *Coffelt v. DDS* lawsuit led to a concerted effort accelerating this shift, resulting in a net decline of the developmental center population from 6,410 to approximately 3,966 individuals between April 1993 and July 1998, and the closing of developmental centers at Stockton and Camarillo.

Seven Regional Resource Development Projects provide the vital function of assessing individuals living in community-based arrangements, to ensure they have access to appropriate services needed to maintain the stability of their community placements. As a matter of principle and policy, Regional Resource Development Project, Regional Center and State Residential Facility staff work in concert to ensure that entry to a State Residential Facility is the least restrictive placement for the individual.

DDS's commitment to ensure that individuals with developmental disabilities live in the least restrictive setting appropriate to their needs, is reflected in the Community Placement Plan (CPP) process. CPP is a strategic framework for assisting Regional Centers to provide the necessary services and supports for individuals to enable their move, when deemed appropriate through the individual planning process, from a State Residential Facility to a community placement. The CPP also provides the resources necessary to stabilize the chosen community living arrangements of individuals who have been referred to the Regional Resource Development Project for deflection from admission to a State Residential Facility.

Beginning with the 2001-02 fiscal year, regional centers were required through a contract to submit a CPP annually, specifying the service and support needs of specifically identified individuals who will be placed in the community or deflected from possible State Residential Facility admission. Such plans are highly individualized, necessitate intensive assessment and person-centered planning, and reflect a partnership encompassing the Regional Center, the individual and their family, the State Residential Facility, and Regional Resource Development Project.

Should their best efforts at maintaining viable community living options fail, the individual's Regional Center will address a request for State Residential Facility admission to the Regional Resource Development Project. Consistent with the policy that developmental centers are options of last resort, admission to one of these facilities requires a formal determination that the individual can not be served in a less restrictive environment, and a court order. See Appendix 3, p. 139, for the official statements of admission procedures for State Residential Facilities.

## **Secure Treatment Facility Commitments to Protect Public Safety**

Individuals may be committed by the courts because their behavior in the community led to involvement with law enforcement authorities. Individuals admitted through the judicial system receive competency training and/or treatment and training to address the circumstances that led them to committing offenses. The goal is to enable them to successfully return to the mainstream of community life. Currently, Porterville Developmental Center is the only facility that provides a secure treatment program for residents that present a threat to the public safety. (See Appendix 1, page 135, for a listing of types of facilities that are specifically excluded from the definition of "secure treatment facility." See Appendix 2, page 137, for a listing of Penal Code 290 and 667.5 felonies that almost invariably require such a secure facility commitment.)

### **Using this Guide**

This guide presents detailed descriptions, *current as of the date of publication*, of the 16 different processes and procedures that have been, or currently are in use for admitting and discharging individuals with developmental disabilities from the state facilities. Most of these procedures are governed by statutory law and/or court findings. For this reason, the guide presents separate admittance and discharge procedures tables, all of which include references to relevant law and/or litigation, and with the roles of key players, such as the individual and family members, Regional Centers, Regional Resource Development Projects, service providers, and others, separately noted. For each law or court finding cited, a page reference is included to a fuller summary and, in the case of statutes, the full text of the law. To help orient the reader, all admittance tables appear with double borders, while all discharge tables are shown with single borders.

The 16 apparently cryptic code references (i.e., "DMR-77" or "RMRA/M-95") used as labels for the different processes are actually cost reporting codes that were developed for the cost recovery system for developmental centers and state hospitals. They are used to categorize levels of services and associated costs, and provide guides to the nature of the individual's commitment and the requirements for community re-entry.

The numbering given in this guide to these coded admission and community re-entry processes is unique to this guide, and is intended to reflect frequency of use, with the most common appearing first. Some processes, as will be noted, are no longer used for new admissions. They have been included mainly because some individuals at the developmental centers still bear the obsolete code as their designation.

This guide is available through the Internet on the Department of Developmental Disabilities' website, at [www.dds.ca.gov](http://www.dds.ca.gov). Updates to it may be necessary as laws and other circumstances change; these will be posted on the website to enable users to maintain a current version.

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## **2. ADMISSION AND COMMUNITY RE-ENTRY PROCESSES**

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Overview  
Admission and Community Re-entry Processes

Manual Process Number	Abbreviation	Cost Reporting Code	California Code References	J/NJ*	Voluntary	Description	Comments
1	DMR	77	WIC 6500 WIC 6509	J	No	Dangerous individual with mental retardation committed by the court to DDS for placement in a court-designated facility.	RC report to court and recommendation regarding specific placement required prior to commitment and placement orders. Annual court hearing required if commitment is to be renewed.
1	DMRH	86	WIC 6506	J	No	Hold pending hearing on petition filed under WIC 6500/6509 (Code 77).	RC required to advise court regarding suitable placement pending hearing.
2	PCO	78	PC 1369	J	No	Court-ordered hold for RC evaluation of competence to stand trial.	Temporary admission on recommendation of RC with RC retaining primary responsibility for evaluation tasks.
2	PCC	83	PC 1370.1	J	No	Commitment for no longer than three years as incompetent to stand trial on criminal charge due to developmental disability.	Prior to 5/10/78 included as part of Code 78. Facility director must provide RC with progress report at end of 90 days and every 6 months thereafter.
3	RMRA	95	WIC 4653 WIC 4803 WIC 4825 WIC 6000(a)	J	No	Adult admission approved by court on basis of State Supreme Court decision <i>In Re Hop</i> on the application of a parent or conservator pursuant to <i>NBRC vs. Sherry S</i> (1989) 207 Cal App. 3rd 449 and <i>In Re Violet C.</i> (1989) 213 Cal. App. 3d 86.	Court-ordered admission to a DDS program warranted. Individual has severe disabilities and unable to make informed request for treatment. Also appropriate where individual is in need of continued treatment after initial admission.
3	JUDH	76	WIC 4426 WIC 4653 WIC 6000.5	J	No	Court-ordered hold of an adult with developmental disabilities pending a hearing pursuant to <i>In Re Hop</i> .	Community placement pending the hearing is not feasible and no other current legal classification appears applicable. Based on <i>In Re Hop</i> (1981) 29 Cal. 3rd 92.

Overview  
Admission and Community Re-entry Processes

Manual Process Number	Abbreviation	Cost Reporting Code	California Code References	J/NJ*	Voluntary	Description	Comments
4	LPSDD	92	WIC 5353 WIC 5358 WIC 6000(a) WIC 6000(b)	J	Yes	Admission or continuation on signature of LPS conservator, or temporary LPS conservator with authority to admit to a State Residential Facility.	RC and State Residential Facility agree admission is appropriate. Annual court hearing required for renewal of LPS conservator's powers.
5	PCC	22	PC 1026 PC 1026.1	J	No	Not guilty by reason of insanity. Commitment until sanity has been restored, or, end of sentence, whichever comes first.	Facility submits report at 6 month intervals to Court and Mental Health Director. Used primarily by Department of Mental Health (DMH).
6	CAMR	79	WIC 4825 WIC 6000(a)	NJ	Yes	Admission through RC of adult with mental retardation but found competent to apply for admission and consent to treatment.	Admission on signature of adult with mental retardation, who has right to release upon request.
7	RMRA (Adult)	75	WIC 4653 WIC 6000(a)	NJ	Yes	Adult already in RMR status who is continued at facility without judicial review. RMRA is no longer used for a new admission, but continues to be listed while individuals remain at State Residential Facilities with RMRA 75 as their current legal code.	Application for continued treatment signed by parent or conservator in absence of competent individual adult, and a court has not required a <i>In Re Hop</i> review.
7	RMRM (Minor)	75	WIC 4653 WIC 6000(b)	NJ	Yes	Minor with mental retardation referred by RC.	Admission on signature of parent, guardian, or other person with legal custody of a minor, or court authorization.
8	YA	91	WIC 1756 WIC 4653	NJ	No	California Youth Authority referral through RC.	Final authority to accept individual or request return to CYA rests with the Director of DDS. Status terminates when CYA commitment expires, unless a petition for detention is filed.

Overview  
Admission and Community Re-entry Processes

Manual Process Number	Abbreviation	Cost Reporting Code	California Code References	J/NJ*	Voluntary	Description	Comments
9	PCC	25	PC 2684 WIC 4653	J	No	Inmate with mental retardation or developmental disability transferred to State Residential Facility from Department of Corrections via RC.	Final authority for acceptance of transfer is with Directors of Departments.
10	TRLC	87	Probate 2250	J	Yes	Admission on signature of Probate Code temporary conservator with court authority to admit conservatee to a State Residential Facility pending hearing on "permanent" conservatorship. TRLC is no longer used for new admissions, but some individuals in one or more of the State Residential Facilities still retain this legal classification.	Individual is unable to make informed request for admission. RC and State Residential Facility agree admission/continuation is appropriate.
11	RLC	88	Probate 2351.5 Probate 2352	J	Yes	Admission or continuation on signature of probate conservator with court authority to fix residence. RLC is no longer used for new admissions, but some individuals in one or more of the State Residential Facilities still retain this legal classification.	Individual is unable to make informed request for admission. RC and State Residential Facility agree admission/continuation is appropriate.
12	RST	96	WIC 4652 WIC 4653 WIC 4803 WIC 4825 WIC 6000.5 WIC 7518	NJ	Yes	Short-term admission of individual with developmental disabilities referred by RC for brief medical, dental, surgical, or rehabilitation treatment without court review. Fairview Developmental Center is excluded as the admitting State Residential Facility.	Admission on signature of parent/guardian/conservator. or recommendation of RC director when individual is unable to make an informed application for admission and consent to treatment. Appropriate only when community services are inadequate or unavailable, and objective(s) of admission can be accomplished within 30 days.

Overview  
Admission and Community Re-entry Processes

Manual Process Number	Abbreviation	Cost Reporting Code	California Code References	J/NJ*	Voluntary	Description	Comments
13	ERC	65	WIC 4416 WIC 4653 WIC 4803 WIC 6000.5	NJ	Yes	Temporary emergency admission of individual with mental retardation on recommendation of RC director. Requires prior State Residential Facility authorization for use.	Individual unable to make informed request for admission, does not qualify for admission under WIC 6500, is in need of immediate facility placement, and has no responsible person willing or able to become conservator.
14	DD	69	WIC 4512 WIC 4653 WIC 6000(a) WIC 6000(b)	NJ	Yes	Admission via RC to State Residential Facility of a minor or adult with developmental disabilities other than mental retardation.	Admission on signature of parents, guardian, conservator, or person with legal custody of a minor, or the signature of an adult or the adult's conservator when admission by <i>In Re Hop</i> does not apply.
15	MNGI	93	WIC 702.3 WIC 4653	J	No	Minor found not guilty by reason of insanity. Commitment via RC until sanity has been restored, or no longer than jurisdictional limits of the juvenile court. However, the commitment period may be extended by a Superior Court proceeding under circumstances identified in WIC Section 702.3.	Used primarily by DMH. Individual to be returned to Probation Department when sanity restored, or individual placed on out-patient status.

Overview  
Admission and Community Re-entry Processes

Manual Process Number	Abbreviation	Cost Reporting Code	California Code References	J/NJ*	Voluntary	Description	Comments
16	MRDP	94	PC 1001.20 PC 1001.23 PC 1001.28	J	Yes	Individual with mental retardation diverted by court order from criminal justice system to DDS for up to two years, with the individual's consent to a community-based diversion program. Not used for DC admission.	Part of a court-ordered diversion program coordinated by the RC, or RC and Probation Department; must make progress reports to court every 6 months.

**NOTE**

\* "J" indicates that some form of court action: (1) is required prior to movement of the client; or (2) authorizes or orders admission to or continuation in, a DDS facility. "NJ" indicates court action is not an integral part of this admission process.

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### **Admission Process 1**

*Individual presents a danger to self or others.*  
(DMRH-86 and DMR-77)

#### **Primary Applicable Statutes and Case Law**

**WIC 4418.7**

Assessment undertaken when individual reported at risk for State Residential Facility admission. (see p. 108)

**WIC 6500**

Commitment order for mentally retarded, danger to self or others. (see p. 119)

**WIC 6501**

Porterville Developmental Center is priority State Residential Facility site for secure treatment facility. (see p.120)

**WIC 6504.5**

Requires reports/recommendations in response to WIC 6500 Petition. (see p. 121)

**WIC 6506**

Temporary hold order. (see p. 122)

**WIC 6509**

Treatment in least restrictive environment. Notification to court and others upon change of placement. (see p. 123)

#### **Process 1 Summary**

Regional Center requests filing of WIC 6506 petition with the court in whose jurisdiction the dangerous behavior occurred; District Attorney/County Counsel obtains temporary hold order and calendars for hearing; WIC 6500 court hearing is held; court determines if individual is 1) mentally retarded, 2) a danger to self or others. Court then identifies least restrictive environment for treatment.

#### **Admission Process Responsibilities**

**a. *Individual/Family/Conservator***

May be initial reporter of situation to Regional Center; all may have Individual Program Plan participation; all may testify in court hearings. Parent signs admission document for minor child; conservator signs for conserved adult. Individual participates in treatment and training as specified in Individual Program Plan. If admitted to State Residential Facility, adult individual signs admission documents, unless conserved.

**b. *Regional Resource Development Project***

Completes WIC 4418.7 assessment; may participate in Individual Program Plan; identifies support services if needed to maintain placement; identifies other suitable, available community placements statewide. If individual is admitted to State Residential Facility, Regional Resource Development Project coordinates admission scheduling with Regional Center/Service Provider/State Residential Facility.

**c. *Regional Center***

When Regional Center determines, in consultation with the State Residential facility liaison, that the consumer meets the criteria for WIC 6500 commitment, Regional Center notifies Regional Resource Development Project and requests WIC 4418.7 assessment of situation by Regional Resource Development Project; initiates Individual Program Plan process to determine any alternatives to State Residential Facility admission; prepares WIC 6504.5 report; notifies both State Residential Facility executive director and Regional Resource Development Project director that WIC 6500 petition will be filed. Regional Center sends DS 2518 Referral for Placement packet to Regional Resource Development Project, and prepares WIC 6506 recommendation for temporary hold order pending WIC 6500 hearing.

**d. *State Residential Facility***

Receives request from Regional Resource Development Project for services from State Residential Facility needed to maintain individual's community placement. State Residential Facility receives DS 2518 Referral for Placement packet from Regional Resource Development Project for consideration of admission, and receives notification from Regional Center of pending WIC 6500 petition. State Residential Facility prepares WIC 6504.5 report to court, evaluating the ability of the State Residential Facility to provide treatment and whether the State Residential Facility can provide the security needed to protect the public.

**e. *DDS, Service Provider, Others***

Service Provider, consumer/family, Adult Protective Services, or other involved agencies or individuals, reports danger of failure of community placement conditions to Regional Center. DDS may intervene in event of disagreements between State Residential Facilities and Regional Resource Development Projects regarding the appropriate placement (State Residential Facility or community). DDS may authorize additional resources to maintain viable community placement.



### **Individual Program Planning Considerations**

Individual Program Plan meetings are held by Regional Center after notification from consumer, Service Provider, parents, guardian, conservator, or other person with legal custody/authority. Individual Program Plan meeting is held upon completion of the WIC 4418.7 assessment. Individual Program Plan meeting is held within 30 days following State Residential Facility admission.

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### **Community Re-entry Process 1**

*Individual is no longer a danger to self or others. Less restrictive services in the community are now appropriate as alternative, with no threat to the health and safety of the public.*

(DMRH-86 and DMR-77)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 6509**

Treatment in least restrictive environment; notification to court and others upon change of placement. (see p. 123)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see p. 111)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 1 Summary**

Individual, family, conservator, ID team request or recommend change of placement from State Residential Facility to community-based living arrangement. Court finds the individual no longer presents a danger to self or others, and orders community placement.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per WIC 6509 and/or *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Providers, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement. Makes recommendation to court for less restrictive placement. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per WIC 6509 or *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with the individual and Service Provider. Gives court 15-day notice of placement change. Places individual on up to one year provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per WIC 6509 or *Richard S.* Notifies receiving facility and local law enforcement in the jurisdiction of the placement if individual committed a PC 290 or PC 667.5 offense (see Appendix 2, p. 137). Notifies court 15 days in advance of a change of placement.

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate. Court orders placement to a less restrictive environment

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

### **Admission Process 2**

*Individual has committed a crime and is found to be incompetent to stand trial.  
(PCO-78 & PCC-83)*

#### **Primary Applicable Statutes and Case Law**

##### **PC 1369**

Court-ordered hold for Regional Center evaluation of competence to stand trial. (see p. 91)

##### **PC 1370**

Commitment to facility upon finding individual is incompetent to stand trial for felony, with periodic reports to court on progress toward gaining competency, maximum commitment not exceeding lesser of three years or maximum sentence for felony charged. (see p. 92)

##### **PC 1370.1**

Commitment for maximum of three years or the length of the sentence for the crime committed, whichever is less. Individual committed to State Residential Facility to gain competency to stand trial on criminal charge. (see p. 95)

##### **PC 1370.4**

Individual may be placed on out-patient status to gain competency only if court finds the placement poses no danger to the health or safety of others. (see p. 99)

##### **WIC 6500**

If competence is not likely to be restored and the individual continues to be a danger to self or others, the court may order commitment. (see p. 119)

#### **Process 2 Summary**

The court orders the Regional Center to recommend to the court a suitable residential facility or State Residential Facility for the purpose of gaining competency to stand trial on the criminal charges. Individuals charged with a PC 667.5 (violent felony) and/or a PC 290 (sexual offense) must be committed to a facility that has a secured perimeter or a locked and controlled treatment facility to ensure the protection of the public safety. Competency reports due 90 days after commitment and every subsequent six months if competence likely to be restored. Individual is returned to court if competence not likely to be restored.

#### **Admission Process Responsibilities**

##### **a. *Individual/Family/Conservator***

This is a criminal proceeding that does not typically take into consideration individual/family preferences. Individual participates in treatment and training directed toward regaining of competence, as specified in Individual Program Plan.

**b. *Regional Resource Development Project***

Completes evaluation; collaborates with Regional Center in determining if State Residential Facility commitment is warranted considering the protection of the public safety. If State Residential Facility admission is recommended, Regional Resource Development Project receives DS 2518 Referral for Placement packet from Regional Center. Upon court-ordered State Residential Facility commitment, Regional Resource Development Project coordinates date for admission and transportation with State Residential Facility, Regional Center, County Sheriff. If court orders outpatient status via PC 1370.4, Regional Resource Development Project may assist Regional Center in locating a suitable community placement that provides competency training

**c. *Regional Center***

Notifies Regional Resource Development Project and forwards DS 2518 Referral for Placement packet. Regional Center completes initial evaluation recommending a suitable residential facility, or recommending out-patient status to court. If outpatient status is ordered, ensures that competency training is provided.

**d. *State Residential Facility***

State Residential Facility reviews DS 2518 Referral for Placement packet and identifies the appropriate unit for admission and date for admission; provides competency reports to court and Regional Center; as specified in PC 1370.1 (see p. 95).

**e. *DDS, Service Provider, Others***

Law enforcement makes arrest; individual, law enforcement, defense attorney, or the court may notify Regional Center of arrest and court hearings. DDS may intervene if there are unresolved issues related to admission of the individual.

**Individual Program Planning Considerations**

Individual Program Plan meeting is held within 30 days following State Residential Facility admission. If consumer has out-patient status, the Individual Program Plan will address needed supports and services (e.g, competency training, drug/alcohol treatment).

## **Community Re-entry Process 2**

*Individual gained competency and/or served lesser of 3 years or the maximum sentence for the crime committed, or individual may be recommended for outpatient status to complete competency training.  
(PCO-78 & PCC-83)*

### **Primary Applicable Statutes and Case Law**

#### **PC 1370.1**

Commitment for lesser of three years or sentence maximum. Individual committed to State Residential Facility to gain competency. (see p. 95)

#### **PC 1370.4**

Individual may be placed on out-patient status to gain competency if no danger to others. (see p. 99)

#### **WIC 4418.3**

Transition to community, with services in place at time of move, if individual voluntarily accepts services from Regional Center. Planning team includes State Residential Facility staff familiar with needs. Individual may visit a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### ***Richard S. v. DDS.***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 2 Summary**

Individual gained competency and/or has served lesser of three years or the maximum sentence for the crime committed, or there is recommendation for out patient status to complete competency training. Criminal court orders out-patient status or vacates order for competency. Community placement is recommended.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed, chairs transition conference, participates in 30-day conference, and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement, and develops or identifies appropriate placement options. Conducts monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual in provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.



### **Admission Process 3**

*Individual is not able to maintain community placement, or circumstances change so that community resources are not available to meet the individual's needs.*

(JUDH & RMRA/M-95)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.7**

Assessment undertaken when individual reported at risk for State Residential Facility admission. (see p. 108)

#### ***In re Hop***

Adult gravely disabled individual, no protest by individual; no less-restrictive living alternative; State Residential Facility placement is warranted. Hearing held to meet due process requirements. (see p. 129)

#### ***NBRC v. Sherry S.***

Admitted to a State Residential Facility on the application of a parent or conservator, combined with a referral from a regional center and a certificate of non-objection. (see p. 131)

#### ***In re Violet C.***

Placement is to be effected through either the parent of a minor or conservator of an adult, or other legal representative. (see p. 130)

### **Admission Process 3 Summary**

RC/conservator of an adult, or parent of minor, files report requesting District Attorney or County Counsel to file petition to obtain temporary hold order and calendars for hearing; hearing is held; court hears testimony determines whether the individual meets the requirements of case law.

### **Admission Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Participates in the Individual Program Plan process and may provide testimony for court hearing. If individual is a minor, parent signs admission document. Unconserved adult, or conservator of an adult, signs admission documents. If admitted to State Residential Facility, an unconserved adult signs State Residential Facility admission documents. Individual participates in treatment and training as specified in the Individual Program Plan.

**b. *Regional Resource Development Project***

Completes WIC 4418.7 assessment; dispatches support services if needed to maintain placement; attends Individual Program Plan meeting; identifies other suitable community placements that may be available statewide. Regional Resource Development Project forwards copy of DS 2518 Referral for Placement packet to State Residential Facility for review. If admission is determined appropriate, Regional Resource Development Project coordinates scheduling admission between Regional Center/Service Provider/State Residential Facility.

**c. *Regional Center***

Service Provider/parent contacts Regional Center; Regional Center requests Regional Resource Development Project to prepare an assessment (WIC 4418.7); Regional Center initiates Individual Program Plan process to determine any alternatives to State Residential Facility admission; Regional Center sends DS 2518 Referral for Placement packet to Regional Resource Development Project; prepares *In re Hop* petition for temporary hold order pending the full court hearing.

**d. *State Residential Facility***

State Residential Facility processes request from Regional Resource Development Project for State Residential Facility services to maintain community placement, and receives DS 2518 Referral for Placement packet from Regional Resource Development Project for consideration of admission. State Residential Facility determines appropriate residence for initial admission that will most closely meet services and supports needs.

**e. *DDS, Service Provider, Others***

Service Provider reports conditions to Regional Center. DDS Headquarters may intervene if there are disagreements between State Developmental Facilities and Regional Resource Development Projects regarding the appropriate placement; may authorize additional resources to maintain viable community placement.

**Individual Program Planning Considerations**

Individual Program Plan meetings are held by Regional Center as soon as Regional Center is contacted by the Service Provider. Individual Program Plan meeting is held upon completion of the WIC 4418.7 assessment, and if State Residential Facility admission is determined to be appropriate, an Individual Program Plan meeting is held within 30 days after State Residential Facility admission.

### **Community Re-entry Process 3**

*Community resources are available to meet the individual's needs; return to community is requested/recommended.*

(JUDH & RMRA/M-95)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see pp. 111 - 115)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 3 Summary**

Individual, family, conservator, ID team request or recommend change of placement from State Residential Facility to community-based living arrangement.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team, including Regional Center, determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

#### **Admission Process 4**

*LPS conservator applies for voluntary admission of individual to State Residential Facility for purposes of treatment.*  
(LPSDD-92)

#### **Primary Applicable Statutes and Case Law**

##### **WIC 4418.7**

Assessment undertaken when individual reported at risk for State Residential Facility admission. (see p. 108)

##### **WIC 5353**

Temporary Lanterman-Petris-Short (LPS) conservator may require individual to be detained in facility providing treatment and which may be locked. (see p. 115)

##### **WIC 5358**

Conservator places individual where treatment needs can be met and public is protected. (see p. 116)

##### **WIC 6000 (a)**

Competent adult individual, or LPS conservator may apply for, and State Residential Facility Medical Director may accept, voluntary admission of individual. (see p. 117)

##### **WIC 6000(b)**

Admission application of minor on signature of parent, guardian, legal representative. (see p. 118)

#### **Process 4 Summary**

LPS conservator authorizes the admission of conservatee into a State Residential Facility.

#### **Admission Process Responsibilities**

##### **a. *Individual/Family/Conservator***

Conservator signs admissions documents; participates in the Individual Program Plan process. Individual participates in treatment and training as specified in Individual Program Plan.

**b. *Regional Resource Development Project***

Completes WIC 4418.7 assessment; dispatches support services if needed to maintain placement; identifies other suitable community placements that may be available statewide; and assists Regional Center in locating needed services and supports. If State Residential Facility admission is recommended, DS 2518 Referral for Placement packet is received by Regional Resource Development Project from Regional Center. If admission is determined appropriate, Regional Resource Development Project coordinates scheduling admission between Regional Center/Service Provider/conservator/State Residential Facility.

**c. *Regional Center***

Conservator/Service Provider/parent contacts Regional Center; Regional Center notifies Regional Resource Development Project; requests preparation of WIC 4418.7 assessment of situation. Regional Center responsible for locating services and supports. Regional Center sends DS 2518 Referral for Placement packet to Regional Resource Development Project.

**d. *State Residential Facility***

State Residential Facility provides services that may be requested to maintain community placement; reviews DS 2518 Referral for Placement packet for consideration of admission. State Residential Facility notifies Regional Center and conservator whether or not needed services can be provided.

**e. *DDS, Service Provider, Others***

DDS Headquarters may intervene if there are disagreements between State Residential Facilities and Regional Resource Development Projects regarding the appropriate placement (State Residential Facility or community); may authorize additional resources to maintain viable community placement.

**Individual Program Planning Considerations**

Individual Program Plan meetings are held by Regional Center as soon as Regional Center is contacted by the conservator; Individual Program Plan meeting is held upon completion of the WIC 4418.7 assessment; Individual Program Plan meeting is held within 30 days after State Residential Facility admission.

### **Community Re-entry Process 4**

*Community placement requested or recommended for individual by LPS conservator.  
(LPSDD-92)*

#### **Primary Applicable Statutes and Case Law**

##### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

##### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

##### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see pp. 111 - 115)

##### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

#### **Process 4 Summary**

LPS conservator authorizes the placement of conservatee. Individual, family, conservator, ID team request or recommend change of placement to community-based services.

#### **Community Re-entry Process Responsibilities**

##### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center, and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed, chairs transition conference, participates in 30-day conference, and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.



### **Admission Process 5**

*Individual determined to have been insane during commission of a criminal offense.  
(PCC-22)*

NOTE: Used primarily by California Department of Mental Health, rarely for individuals with developmental disabilities.

### **Primary Applicable Statutes and Case Law**

#### **PC 1026**

If defendant found insane at time of offense, the court orders confinement in State Residential Facility for mentally disordered (or other treatment facility per CPD recommendation,) or outpatient status until sanity is restored. (see p. 84)

#### **PC 1026.1**

Defines circumstances under which release may occur. (see p. 86)

### **Process 5 Summary**

Regional Center is notified by officer of the court. Regional Center, along with public defender; and County Mental Health community director make recommendation for placements

### **Admission Process Responsibilities**

#### **a. *Individual/Family/Conservator***

This is a criminal proceeding that does not typically take into consideration individual/family preferences. Individual participates in treatment and training as specified in Individual Program Plan. Unconserved adult signs admission documents. Individual participates in treatment and training as specified in Individual Program Plan.

#### **b. *Regional Resource Development Project***

Completes evaluation; collaborates with Regional Center and director of community programs in the California Department of Mental Health, to determine if State Residential Facility commitment is warranted, in view of public safety considerations. If commitment is recommended, Regional Center sends DS 2518 Referral for Placement packet to Regional Resource Development Project. If court orders commitment, Regional Resource Development Project coordinates scheduling admission between County Sheriff, Regional Center, and State Residential Facility. If (PC ) outpatient status recommended instead, Regional Resource Development Project may assist Regional Center in finding appropriate community placement that provides appropriate services and supports.

**c. *Regional Center***

Notifies Regional Resource Development Project and forwards DS 2518 Referral for Placement packet. Regional Center completes initial evaluation regarding competency and recommends a suitable residential facility.

**d. *State Residential Facility***

State Residential Facility reviews DS 2518 Referral for Placement packet, determines if appropriate services can be provided, and notifies the court.

**e. *DDS, Service Provider, Others***

DDS Headquarters may intervene if there are unresolved issues related to admission of the individual.

**Individual Program Planning Considerations**

Individual Program Plan meeting is held within 30 days after admission.

### **Community Re-entry Process 5**

*Individual previously determined to have been insane during commission of a criminal offense recovers sanity.*

(PCC-22)

NOTE: Used primarily by California Department of Mental Health; rarely for individuals with developmental disabilities.

### **Primary Applicable Statutes and Case Law**

#### **PC 1026.2**

Defines circumstances for release. (see p. 87)

#### **WIC 4418.3**

Transition to community, with services in place at time of move. Planning team includes State Residential Facility staff familiar with needs. Individual may visit a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 5 Summary**

County community program director, Regional Center, State Residential Facility collaborate on plans for community re-entry under provisions of WIC 1026.2.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

### **Admission Process 6**

*Two circumstances in which adult individual with mental retardation is competent to apply for admission to State Residential Facility and consent to treatment:*

*(a) Adult individual placed on county probation contingent upon willingness to enter State Residential Facility for treatment.*

*(b) Legal commitment expires; individual consents to maintain State Residential Facility residence until an appropriate community placement becomes available.*

(CAMR)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4825**

Admission through Regional Center of adult with mental retardation found competent to apply for State Residential Facility admission and give consent to treatment. (see p. 115)

#### **WIC 6000 (a)**

State Residential Facility may accept for admission; competent adult individual may apply for voluntary admission; conservator with power to fix placement can apply for admission. (see p. 117)

### **Process 6 Summary**

Used for adults only. Admission on signature of adult with mental retardation, who has right to be released upon request. If admission is a condition of probation the probation officer shall be notified prior to release.

### **Admission Process Responsibilities**

#### **a. *Individual/Family/Conservator***

If voluntary admission is a condition of probation, this is a criminal proceeding that does not typically take into consideration individual/family preferences

#### **b. *Regional Resource Development Project***

Completes evaluation; collaborates with Regional Center in determining if State Residential Facility commitment is warranted in light of public safety considerations. If State Residential Facility admission is recommended, DS 2518 Referral for Placement packet is sent to Regional Resource Development Project by Regional Center. If admission is determined appropriate, Regional Resource Development Project coordinates scheduling admission between County Sheriff, probation officer, Regional Center, and State Residential Facility. If State Residential Facility admission is not warranted, Regional Resource Development Project assists Regional Center in locating an appropriate community placement that provides the required services and supports.

**c. *Regional Center***

Notifies Regional Resource Development Project and forwards DS 2518 Referral for Placement packet. Regional Center completes initial evaluation regarding appropriateness of State Residential Facility admission. If State Residential Facility admission not appropriate, recommends a suitable residential facility.

**d. *State Residential Facility***

State Residential Facility reviews DS 2518 Referral for Placement packet and identifies the appropriate unit at State Residential Facility for admission.

**e. *DDS, Service Provider, Others***

Law enforcement makes arrest; individual or his attorney or the court may notify Regional Center of arrest and court hearings. DDS Headquarters may intervene if there are issues related to admission of the individual.

**Individual Program Planning Considerations**

Individual Program Plan meeting is held within 30 days after admission.

### **Community Re-entry Process 6**

*Individual with mental retardation competent to apply for admission and consent to treatment; requests release.*

*#6 (a) Adult on probation through county, contingent upon signing into State Residential Facility for treatment; probation completed.*

*#6 (b) Legal commitment expired; community alternatives are not available; individual agreed to maintain State Residential Facility residence until community placement is finalized; now requests release.*

(CAMR)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community, with services in place at time of move.

Planning team includes State Residential Facility staff familiar with needs. Individual may visit a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see p. 111)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 6 Summary**

Individual, family, conservator, or ID team request or recommend change of placement to community-based services. Under circumstance 6(a) above, probation has been completed.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per Richard S.

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed, chairs transition conference, participates in 30-day conference, and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

County probation officer participates in Individual Program Plan meeting and transition conferences. Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.



**Admission Process 7**

*Individual has developmental disability and meets involuntary admission criteria. Individual incapable of making a knowing and intelligent request for admission. State Residential Facility placement warranted by individual needs and unavailability of community resources.*

(RMRM-75 or RMRA-75)

NOTE: This process no longer in use for new admissions, but a significant number of individuals are at the State Developmental Facilities under this admission code, whose cases have never been through judicial review.

**Primary Applicable Statutes and Case Law**

**WIC 4418.7**

Assessment undertaken when individual reported at risk for State Residential Facility admission. (see p. 108)

**WIC 4653**

Except for judicial commitment, Regional Center referral required for State Residential Facility admission. (see p. 111)

**WIC 6000(a)**

Competent adult individual, or conservator, may apply for voluntary State Residential Facility admission. (see p. 117)

**WIC 6000(b)**

Application of minor on signature of parent, guardian, legal representative. (see p. 118)

**Process 7 Summary**

Process not in current use.

**Admission Process Responsibilities**

**a. Individual/Family/Conservator**

N/A

**b. Regional Resource Development Project**

N/A

**c.     *Regional Center***

N/A

**d.     *State Residential Facility***

N/A

**e.     *DDS, Service Provider, Others***

N/A

**Individual Program Planning Considerations**

N/A

### **Community Re-entry Process 7**

*Individual has developmental disability and met involuntary admission criteria; return to community is requested/recommended.*

(RMRM-75 or RMRA -75)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see p. 111)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 7 Summary**

Individual, family, conservator/ID team request or recommend change of placement from State Residential Facility to community-based living arrangement.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per WIC 6509 or *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

### **Admission Process 8**

*Individual is an inmate under the jurisdiction of California Youth Authority  
(YA-91)*

### **Primary Applicable Statutes and Case Law**

#### **WIC 1756**

Director of California Youth Authority certifies that an individual inmate confined to a state correctional school may expedite treatment by transfer to a State Residential Facility. Director of DDS authorizes the transfer/receipt of the individual inmate for care and treatment.

(see p. 106)

#### **WIC 4653**

No individual shall be admitted to a State Residential Facility except on the referral of a Regional Center. (see p. 111)

### **Process 8 Summary**

Referral for admission from California Youth Authority via the Regional Center. Final authority to accept person or request return to California Youth Authority rests with the DDS Director. Status terminates when California Youth Authority commitment expires, unless a petition for detention under another statute is filed.

### **Admission Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Because this is part of the criminal proceedings, individual choice and family request may - or may not - be considered in invoking the request for transfer. Parent of minor or legally authorized representative signs admission documents. Individual participates in treatment and training as specified in Individual Program Plan.

#### **b. *Regional Resource Development Project***

Regional Resource Development Project will be requested to evaluate the inmate to determine if he or she would benefit from care and treatment in a State Residential Facility

#### **c. *Regional Center***

Regional Center forwards DS 2518 Referral for Placement packet to DDS Headquarters' Secure Treatment Section for consideration and approval of transfer.

**d. *State Residential Facility***

State Residential Facility in coordination with DDS Headquarters reviews the DS 2518 Referral for Placement packet and makes recommendation to DDS Headquarters to approve or disapprove of transfer.

**e. *DDS, Service Provider, Others***

DDS Headquarters approves or disapproves transfer, gives notice to parties (i.e. Regional Resource Development Project, State Residential Facility, California Youth Authority, Regional Center.) California Youth Authority participates in Individual Program Plan meeting.

**Individual Program Planning Considerations**

Individual Program Plan meeting is held within 30 days after State Residential Facility admission.

### **Community Re-entry Process 8**

*Individual is California Youth Authority inmate, with sentence expiring and community placement recommended.*

(YA-91)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 8 Summary**

California Youth Authority commitment expires and transition planning activities begin, unless a petition for detention under another statute is filed by Regional Center. California Youth Authority, Regional Center, and State Residential Facility collaborate on plans for community re-entry.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs, if individual accepts Regional Center services. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

#### **b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed, chairs transition conference, participates in 30-day conference, and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options; schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate. California Youth Authority representative participates/approves community placement and associated pre-placement visits.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.



### **Admission Process 9**

*Inmate with developmental disability transferred to State Developmental Center from Department of Corrections, via Regional Center.*  
(PCC -25)

### **Primary Applicable Statutes and Case Law**

#### **PC 2684**

Individual inmate transferred to a State Residential Facility upon consent of Directors of Board of Prison Terms, California Department of Corrections and DDS. (see p. 99)

#### **WIC 4653**

Except for judicial commitment, Regional Center referral required for State Residential Facility admission. (see p. 111)

### **Process 9 Summary**

Board of Prison Terms certifies that an inmate with developmental disabilities would benefit from care and treatment in a State Residential Facility. DDS Director evaluates inmate to determine if request for transfer is appropriate. Final determination rests with DDS.

### **Admission Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Because this is part of the criminal proceedings, individual choice and family request may - or may not - be considered in invoking the request for transfer. Unconserved adult may sign admission documents. Individual participates in treatment and trainings as specified in Individual Program Plan.

#### **b. *Regional Resource Development Project***

Regional Resource Development Project will be requested to evaluate the inmate to determine if he or she would benefit from care and treatment in a State Residential Facility, and if the inmate's health and safety is at risk.

#### **c. *Regional Center***

Regional Center forwards DS 2518 Referral for Placement packet to DDS Headquarters' Secure Treatment Section for consideration and approval of transfer.

**d. *State Residential Facility***

State Residential Facility in coordination with DDS Headquarters reviews the DS 2518 Referral for Placement packet and makes recommendation to DDS Headquarters to approve or disapprove of transfer.

**e. *DDS, Service Provider, Others***

DDS Headquarters makes a final approval or disapproval of transfer, notifies parties (Regional Resource Development Project, State Residential Facility, California Department of Corrections, Regional Center) of approval or disapproval.

**Individual Program Planning Considerations**

Individual Program Plan meeting is held within 30 days following State Residential Facility admission.

### **Community Re-entry Process 9**

*Individual inmate transferred to Developmental Center from Department of Corrections, via Regional Center; sentence expires.*

(PCC -25)

### **Primary Applicable Statutes and Case Law**

#### **PC 2684**

Transfer to a State Residential Facility upon consent of Directors of Board of Prison Terms, California Department of Corrections, and DDS. (see p. 99)

#### **WIC 4418.3**

Transition to community, with services in place at time of move. Planning team includes State Residential Facility staff familiar with needs. Individual may visit a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 9 Summary**

California Department of Corrections, Board of Prison Terms, Regional Center, State Residential Facility , collaborate on plans for community re-entry

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs, if individual accepts Regional Center services. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

#### **b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options; and schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards DS 2518 Referral for Placement packet to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning and pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

**Admission Process 10**

*Individual admitted on the signature of temporary probate conservator.  
(TRLC-87)*

NOTE: Not currently used for new State Residential Facility admissions, but there are individuals currently at State Residential Facilities under this legal classification.

**Primary Applicable Statutes and Case Law**

**Probate 2250**

Appointment of temporary conservator by the court. (see p. 101)

**Process 10 Summary**

**No longer used for new admissions to State Residential Facilities.**

Court-appointed temporary probate conservator of an adult signs admission documents; pending conservatorship hearing.

**Admission Process Responsibilities**

**a. *Individual/Family/Conservator***

N/A

**b. *Regional Resource Development Project***

N/A

**c. *Regional Center***

N/A

**d. *State Residential Facility***

N/A

**e. *DDS, Service Provider, Others***

N/A

**Individual Program Planning Considerations**

N/A

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### **Community Re-entry Process 10**

*Individual admitted by request of temporary probate conservator, or is recommended for placement.*

(TRLC-87)

NOTE: Not currently used for new State Residential Facility admissions, but there are individuals currently at State Residential Facilities under this legal classification.

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see p. 111)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 10 Summary**

Individual, family, conservator, ID team request or recommend change of placement from State Residential Facility to community-based living arrangement.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources; participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards DS 2518 Referral for Placement packet to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.



**Admission Process 11**

*Admission of individual on the signature of the probate conservator with court authority to fix residence.*

(RLC-88)

NOTE: Not currently used for new State Residential Facility admissions, but there are individuals currently at State Residential Facilities under this legal classification.

**Primary Applicable Statutes and Case Law**

**Probate 2351.5**

Court appointment of limited conservator for specified care, custody, and control of the conservatee. (see p. 101)

**Probate 2352**

Conservator may fix placement of conservatee anywhere in state that is least restrictive setting available and necessary to meet the conservatee's needs; does not apply to fixing residence in a State Residential Facility or when the conservator has not been granted power to fix placement. (see p. 102)

**Process 11 Summary**

**No longer used for new admissions to State Residential Facilities.**

Probate conservator of an adult signs admission documents; pending hearing on conservatorship.

**Admission Process Responsibilities**

**a. Individual/Family/Conservator**

N/A

**b. Regional Resource Development Project**

N/A

**c. Regional Center**

N/A

**d. State Residential Facility**

N/A

e. *DDS, Service Provider, Others*

N/A

**Individual Program Planning Considerations**

N/A

### **Community Re-entry Process 11**

*Admission of individual on signature of Probate Conservator with court authority to fix residence, request or recommendation for community placement.*

(RLC-88)

NOTE: Not currently used for new State Residential Facility admissions, but there are individuals currently at State Residential Facilities under this legal classification.

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see p. 111)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 11 Summary**

Individual, family, conservator, ID team request or recommend change of placement from State Residential Facility to community-based living arrangement.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting; pre-placement and transition conferences; and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards DS 2518 Referral for Placement packet referral to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

### **Admission Process 12**

*Individual needs short-term State Residential Facility admission for medical, dental, surgical, or rehabilitation treatment without court review. (Applies to Agnews, Lanterman, Porterville, and Sonoma Developmental Centers only, in accordance with local interagency agreements.)*

(RST)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4652**

Regional Center to locate appropriate individual care and treatment. (see p. 111)

#### **WIC 4653**

State Residential Facility Admission upon Regional Center referral. (see p. 111)

#### **WIC 4803**

Individual/parent/conservator object to State Residential Facility admission. (see p. 114)

#### **WIC 4825**

Individual may leave State Residential Facility anytime, if State Residential Facility notified. (see p. 115)

#### **WIC 6000.5**

State Residential Facility Medical Director may receive individual referred by Regional Center. (see p. 119)

#### **WIC 7518**

State Residential Facility Medical Director may consent to medical, dental, surgical treatment on behalf of a minor or unrepresented adult individual who is a resident of that State Residential Facility. (see p. 125)

### **Process 12 Summary**

Admission is made without a judicial review. Admission on the signature of parent, guardian, or conservator, or on recommendation of regional center director when individual is not able to make an informed application for admission and consent to treatment. Appropriate only when community services are unavailable/inadequate, and objective of admission can be accomplished within 30 days.

## **Admission Process Responsibilities**

**a. *Individual/Family/Conservator***

May be initial reporter of situation to Regional Center. If individual is minor, parent consents to admission, signs admission documents. Conservator or legal representative of an adult signs admission documents. Individual participates in treatment as specified in Individual Program Plan/nursing care plan.

**b. *Regional Resource Development Project***

If time permits, completes WIC 4418.7 assessment; dispatches support services needed to maintain placement; identifies other suitable, available community placements statewide; Regional Resource Development Project forwards copy of DS 2518 Referral for Placement packet to State Residential Facility for review; if admission is approved, Regional Resource Development Project coordinates scheduling admission between Regional Center/Service Provider and or parents/State Residential Facility.

**c. *Regional Center***

Upon being contacted by Service Provider/parent, Regional Center holds Individual Program Plan meeting, notifies Regional Resource Development Project, verbally requesting WIC 4418.7 assessment of situation; Regional Center sends DS 2518 Referral for Placement packet to Regional Resource Development Project, arranges transportation to State Residential Facility if admission is approved. If admission results in a longer stay than warranted by “emergency status”, Regional Center seeks judicial review of admission.

**d. *State Residential Facility***

State Residential Facility processes request from Regional Resource Development Project for State Residential Facility services to maintain community placement, and receives DS 2518 Referral for Placement packet from Regional Resource Development Project for consideration of admission. State Residential Facility determines appropriate residence for initial admission that will most closely meet services and support needs.

**e. *DDS, Service Provider, Others***

Service Provider reports emergency situation to Regional Center. DDS may intervene in event of disagreements between State Residential Facilities and Regional Resource Development Projects regarding the appropriate placement (State Residential Facility or community). DDS may authorize additional resources to assure timely State Residential Facility admission.

### **Individual Program Planning Considerations**

Individual Program Plan meetings are held by Regional Center as soon as they are contacted by the Service Provider. Individual Program Plan meeting is held upon completion of the WIC 4418.7 assessment; Individual Program Plan meeting is held within 30 days of admission.

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### **Community Re-entry Process 12**

*Individual needs short term State Residential Facility admission for the purpose of accessing brief medical, dental, surgical, or rehabilitation treatment without court review. (Agnews, Lanterman, Porterville, and Sonoma State Residential Facilities only, in accordance with local interagency agreements.)*  
(RST)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see p. 111)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 12 Summary**

Medical Director/physician at State Residential Facility authorizes discharge based on health status and assurances that follow-up care can be provided either by the State Residential Facility or community-based entities.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility; assists Regional Center in identifying needed services, supports, and community resources; participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

### **Admission Process 13**

*Individual is in need of emergency State Residential Facility admission due to a serious threat to health and safety.*

(ERC-65)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4416**

DDS has jurisdiction relating to care, custody, and treatment of individual. (see p. 106)

#### **WIC 4418.7**

Assessment undertaken when individual reported at risk for State Residential Facility admission. (see p. 108)

#### **WIC 4653**

Except for judicial commitment, Regional Center referral required for State Residential Facility admission. (see p. 111)

#### **WIC 4803**

Regional Center certifies that individual, parent, conservator do not object to admission. Fair Hearing resolves any objections to placement. (see p. 114)

#### **WIC 6000.5**

State Residential Facility may receive any referred individual, as defined in Section 4512. (see p. 119)

### **Process 13 Summary**

Regional Center requests temporary emergency admission of mentally retarded person upon Regional Center director recommendation. Admission document signed by the Regional Center director or designee.

### **Admission Process Responsibilities**

#### **a. *Individual/Family/Conservator***

May be initial reporter of situation to Regional Center. If individual is minor, parent consents to admission, signs admission documents. Conservator of an adult signs admission documents.

**b. *Regional Resource Development Project***

If time allows, completes WIC 4418.7 assessment; dispatches support services if needed to maintain placement; identifies other suitable, available community placements statewide. Regional Resource Development Project forwards copy of DS 2518 Referral for Placement packet to State Residential Facility for review; if admission is approved, Regional Resource Development Project coordinates scheduling admission between Regional Center/Service Provider and/or parent/conservator/State Residential Facility.

**c. *Regional Center***

Upon being contacted by Service Provider/parent, Regional Center holds Individual Program Plan meeting; notifies Regional Resource Development Project, verbally requesting WIC 4418.7 assessment of situation. Regional Center sends DS 2518 Referral for Placement packet to Regional Resource Development Project; arranges transportation to State Residential Facility if admission is approved. If admission results in a longer stay than warranted by “emergency status,” Regional Center seeks judicial review of admission.

**d. *State Residential Facility***

State Residential Facility processes request from Regional Resource Development Project for State Residential Facility services to maintain community placement, and receives DS 2518 Referral for Placement packet from Regional Resource Development Project for consideration of admission. State Residential Facility determines appropriate residence for initial admission that will most closely meet services and supports needs.

**e. *DDS, Service Provider, Others***

Service Provider reports emergency situation to Regional Center. DDS may intervene in event of disagreements between State Residential Facilities and Regional Resource Development Projects regarding the appropriate placement (State Residential Facility or community). DDS may authorize additional resources to assure timely State Residential Facility admission.

**Individual Program Planning Considerations**

Individual Program Plan meetings are held by Regional Center as soon as Regional Center is contacted by Service Provider, parents, guardian, conservator, or person with legal custody/authority. Individual Program Plan meeting is held upon completion of the WIC 4418.7 assessment. Individual Program Plan meeting is held within 30 days following State Residential Facility admission.

### **Community Re-entry Process 13**

*Individual formerly in need of emergency State Residential Facility admission due to a serious threat to their health and safety requests or is recommended for community re-entry because threat no longer exists.*

(ERC-65)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

#### **WIC 4800 - 4805**

Habeas Corpus Petition for release from a State Residential Facility. (see p. 111)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 13 Summary**

Individual, family, conservator, ID team request or recommend change of placement from State Residential Facility to community-based living arrangement.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews. If individual or family member objects to community placement, court may review, as per WIC 6509 or *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning and pre-placement visits, along with individual and Service Provider. Gives court 15-day notice of placement change. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.*

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

### **Admission Process 14**

*Individual has a developmental disability other than mental retardation, and applies for voluntary State Residential Facility admission for treatment unavailable in the community (e.g., seizures or other medical conditions).*

(DD-69)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.7**

Assessment undertaken when individual reported at risk for State Residential Facility admission. (see p. 108)

#### **WIC 4512**

Defines "developmental disability" and other common terms. (see p. 109)

#### **WIC 4653**

No admission to State Residential Facility without Regional Center referral, except for court commitment. (see p. 111)

#### **WIC 6000 (a)**

Competent adult individual, or conservator, may apply for voluntary State Residential Facility admission. (see p. 117)

#### **WIC 6000(b)**

Application of minor on signature of parent, guardian, legal representative. (see p. 118)

### **Process 14 Summary**

Regional Center requests admission of MR upon Regional Center director's recommendation. Admission on signature of parents, guardian, conservator, or person with legal custody of a minor, or the signature of an adult or the adult's conservator when admission by *In re Hop* does not apply.

### **Admission Process Responsibilities**

#### **a. Individual/Family/Conservator**

May be initial reporter of situation to Regional Center. If individual is minor, parent consents to admission. Unconserved adult, or conservator for conserved adult, signs admission documents.

**b. *Regional Resource Development Project***

If time allows, completes WIC 4418.7 assessment; dispatches support services if needed to maintain placement; identifies other suitable, available community placements statewide; Regional Resource Development Project forwards copy of DS 2518 Referral for Placement packet to State Residential Facility for review. If admission is approved, Regional Resource Development Project coordinates scheduling admission between Regional Center/Service Provider and/or parent/conservator/State Residential Facility.

**c. *Regional Center***

Upon being contacted by Service Provider/parent, Regional Center holds Individual Program Plan meeting, and notifies Regional Resource Development Project, verbally requesting WIC 4418.7 assessment of situation. Regional Center sends DS 2518 Referral for Placement packet to Regional Resource Development Project, and arranges transportation to State Residential Facility if admission is approved.

**d. *State Residential Facility***

State Residential Facility processes request from Regional Resource Development Project for State Residential Facility services to maintain community placement, and receives DS 2518 Referral for Placement packet from Regional Resource Development Project for consideration of admission. State Residential Facility determines whether services can be provided and identifies appropriate residence for initial admission that will most closely meet services and supports needs. State Residential Facility gives notice to Regional Resource Development Project, Regional Center, and court.

**e. *DDS, Service Provider, Others***

Service Provider reports situation to Regional Center. DDS may intervene in event of disagreements between State Residential Facilities and Regional Resource Development Projects regarding the appropriate placement (State Residential Facility or community). DDS may authorize additional resources to maintain viable community placement.

**Individual Program Planning Considerations**

Individual Program Plan meetings are held by Regional Center as soon as Regional Center is contacted by Service Provider, parents, guardian, conservator, or person with legal custody/authority. Individual Program Plan meeting is held upon completion of the WIC 4418.7 assessment. Individual Program Plan meeting is held within 30 days following State Residential Facility admission.



### **Community Re-entry Process 14**

*Individual has a developmental disability other than mental retardation, applied for voluntary State Residential Facility admission for treatment unavailable in the community; return to community is requested/recommended.*

(DD-69)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

### **Process 14 Summary**

Individual, family, conservator, ID team request or recommend change of placement from State Residential Facility to community-based living arrangement.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face-to-face reviews.

#### **b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

#### **c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement; develops or identifies appropriate placement options. Schedules monthly face-to-face reviews of individual's placement for first 90 days.

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement.

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

### **Admission Process 15**

*Minor found insane at time of criminal offense, and court-ordered to receive appropriate treatment for mentally disordered.*

(MNGI)

(This Process is Used Primarily by the Department of Mental Health)

### **Primary Applicable Statutes and Case Law**

#### **WIC 702.3**

Minor found insane at time of offense; court may order confinement to State Residential Facility for mentally disordered, or other appropriate treatment facility per CPD recommendation; court may order outpatient status pending restoration of sanity as alternative to facility confinement. (see p. 105)

#### **WIC 4653**

Individual not to be admitted to State Residential Facility except via Regional Center referral. (see p. 111)

### **Process 15 Summary**

County Mental Health community director makes recommendation for placement. This process is used primarily by the Department of Mental Health.

### **Admission Process Responsibilities**

#### **a. Individual/Family/Conservator**

This is a criminal proceeding that does not typically take into consideration individual/family preferences. Individual participates in treatment and training as specified in Individual Program Plan

#### **b. Regional Resource Development Project**

Completes evaluation; works with Regional Center and director of community programs in the California Department of Mental Health, to determine if State Residential Facility commitment is appropriate, given public safety needs. If admission is ordered, Regional Resource Development Project coordinates among County Sheriff, Regional Center, and State Residential Facility, to schedule admission. If outpatient status needed, Regional Resource Development Project may assist Regional Center and County Mental Health community program director to find community placement.

**c.     *Regional Center***

Notifies Regional Resource Development Project and forwards DS 2518 Referral for Placement packet. Regional Center completes court-ordered evaluation and recommends a suitable residential placement.

**d.     *State Residential Facility***

State Residential Facility reviews DS 2518 Referral for Placement packet and identifies the appropriate unit for admission.

**e.     *DDS, Service Provider, Others***

Law enforcement makes arrest; individual or his attorney or the court may notify Regional Center of arrest and court hearings. DDS Headquarters may intervene if there are issues related to admission of the individual.

**Individual Program Planning Considerations**

Individual Program Plan meeting is held within 30 days after admission.

### **Community Re-entry Process 15**

*Minor who previously was found insane at time of criminal offense, and court-ordered to receive appropriate treatment for mentally disordered, now has sanity restored.*

(MNGI)

### **Primary Applicable Statutes and Case Law**

#### **WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

#### **WIC 4508**

Allows up to one-year provisional placement with right to return to State Residential Facility, upon obtaining court approval at request of Regional Center. (see p. 109)

**WIC 4801** Habeas Corpus Petition for release from a State Residential Facility. (see p. 112)

#### ***Richard S. v. DDS***

The Individual Program Planning team is expected to exercise professional judgment in making placement decisions. Any of the participants in an Individual Program Plan meeting for an individual residing in a State Residential Facility may request court review of, but not otherwise prevent, the discharge of the individual to an appropriate community placement. (see p. 132)

### **Process 15 Summary**

Regional Center, with public defender and County Mental Health community director, makes recommendation for placement. Individual, family, conservator, ID team request or recommend change of placement to community-based services.

### **Community Re-entry Process Responsibilities**

#### **a. *Individual/Family/Conservator***

Afforded opportunity to visit a variety of living arrangements that could meet needs. Participates in Individual Program Plan meeting, pre-placement and transition conferences, and face- to- face reviews. If individual or family member objects to community placement, court may review, as per *Richard S.*

**b. *Regional Resource Development Project***

Coordinates community placement activities, including pre-placement visits involving individual, Service Provider, Regional Center and State Residential Facility. Assists Regional Center in identifying needed services, supports, and community resources. Participates in Individual Program Plan meeting when community placement is discussed; chairs transition conference; participates in 30-day conference; and provides post-placement follow-up at intervals of 5 days, 30 days, 6 months, and 1 year.

**c. *Regional Center***

Regional Center receives DS 2518 Referral for Placement packet from State Residential Facility; participates in Individual Program Plan process and transition conferences on community placement. Schedules monthly face-to-face reviews of individual's placement for first 90 days. If Regional Center objects to community placement, court may review, as per *Richard S.*

**d. *State Residential Facility***

ID team determines less restrictive community placement is appropriate and forwards referral for placement packet (DS 2518) to Regional Resource Development Project and Regional Center. State Residential Facility staff participate in transition planning, pre-placement visits, along with individual and Service Provider. Places individual on provisional placement. If State Residential Facility staff/ID team member objects to placement, court may review, as per *Richard S.* (see p. 132)

**e. *DDS, Service Provider, Others***

Service Provider participates in transition planning with individual, family, conservator, legal representative, as appropriate.

**Individual Program Planning Considerations**

Individual Program Plan meetings held not less than once annually while individual is in State Residential Facility, and at least every three years when individual is in a community living arrangement, or more often to meet needs of individual/family. Transition conference held no less than 15 days prior to move, or as ordered by court.

**Admission Process 16**

*Diversion for treatment as alternative to trial for criminal offense for individual with mental retardation.*

(MRDP)

**Primary Applicable Statutes and Case Law**

**PC 1001.20**

Defines mental retardation, Regional Center, single and dual agency diversion. (see p. 83)

**PC1001.23**

Determination of mental retardation; Regional Center makes recommendation for diversion options; specifies reporting requirements. (see p. 83)

**PC 1001.28**

Maximum of two years on diversion; reporting by agencies every 6 months. (see p. 84)

**Process 16 Summary**

State Residential Facility admission is not considered an appropriate diversion option and is not authorized by DDS policy.

**Admission Process Responsibilities**

**a.** *Individual/Family/Conservator*

N/A

**b.** *Regional Resource Development Project*

N/A

**c.** *Regional Center*

N/A

**d.** *State Residential Facility*

N/A

**e.** *DDS, Service Provider, Others*

N/A

**Individual Program Planning Considerations**

N/A

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**Community Re-entry Process 16**

*Release of individual with mental retardation diverted for treatment as alternative to trial for criminal offense.  
(MRDP)*

**Primary Applicable Statutes and Case Law**

**WIC 4418.3**

Transition to community living based upon Individual Program Plan, to ensure needed services/supports are in place at time of move. Planning team includes State Residential Facility staff familiar with services and supports needed. Individual explores a variety of placements. Transition conference to be held 15 days prior to placement. (see p. 107)

**Process 16 Summary**

State Residential Facility admission is not considered an appropriate diversion option and is not authorized by DDS policy.

**Community Re-entry Process Responsibilities**

**a. Individual/Family/Conservator**

N/A

**b. Regional Resource Development Project**

N/A

**c. Regional Center**

N/A

**d. State Residential Facility**

N/A

**e. DDS, Service Provider, Others**

N/A

**Individual Program Planning Considerations**

N/A

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**3. SELECTED CALIFORNIA STATE STATUTES  
Relating to  
Admission and Community Re-entry Processes  
at the  
State Residential Facilities**

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Statutory Text  
from Website of  
California Legislative Counsel's Office  
*[www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)*

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## California Penal Code

### **PC 1001.20: Definition of Terms.**

*Defines common key terms, including "Mentally retarded" "Regional Center" "Single agency diversion" and "Dual agency diversion."*

As used in this chapter:

(a) "Mentally retarded" means the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(b) "Diversion-related treatment and habilitation" means, but is not limited to, specialized services or special adaptations of generic services, directed towards the alleviation of mental retardation or towards social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and includes, but is not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, sheltered employment, mental health services, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to mentally retarded persons.

(c) "Regional center" means a regional center for the developmentally disabled established under the Lanterman Developmental Disabilities Services Act which is organized as a private nonprofit community agency to plan, purchase, and coordinate the delivery of services which cannot be provided by state agencies to developmentally disabled persons residing in a particular geographic catchment area, and which is licensed and funded by the State Department of Developmental Services.

(d) "Director of a regional center" means the executive director of a regional center for the developmentally disabled or his or her designee.

(e) "Agency" means the prosecutor, the probation department, and the regional center involved in a particular defendant's case.

(f) "Dual agency diversion" means a treatment and habilitation program developed with court approval by the regional center, administered jointly by the regional center and by the probation department, which is individually tailored to the needs of the defendant as derived from the defendant's individual program plan pursuant to Section 4646 of the Welfare and Institutions Code, and which includes, but is not limited to, treatment specifically addressed to the criminal offense charged, for a specified period of time as prescribed in Section 1001.28.

(g) "Single agency diversion" means a treatment and habilitation program developed with court approval by the regional center, administered solely by the regional center without involvement by the probation department, which is individually tailored to the needs of the defendant as derived from the defendant's individual program plan pursuant to Section 4646 of the Welfare and Institutions Code, and which includes, but is not limited to, treatment specifically addressed to the criminal offense charged, for a specified period of time as prescribed in Section 1001.28.

### **PC 1001.23: Diversion Program for Individual with Mental Retardation.**

*This diversion statute allows for community-based services. If approved by the court, the prosecutor, the probation department, and the regional center, and with the consent of the defendant, an individual who has mental retardation may be ordered into a diversion program rather than stand trial for a criminal offense. The regional center makes progress*

*reports every six months. This diversion statute applies only to individuals whose developmental disabilities include mental retardation.*

(a) Upon the court's receipt of the reports from the prosecutor, the probation department, and the regional center, and a determination by the regional center that the defendant is not mentally retarded, the criminal proceedings for the offense charged shall proceed. If the defendant is found to be mentally retarded and eligible for regional center services, and the court determines from the various reports submitted to it that the proposed diversion program is acceptable to the court, the prosecutor, the probation department, and the regional center, and if the defendant consents to diversion and waives his or her right to a speedy trial, the court may order, without a hearing, that the diversion program be implemented for a period of time as prescribed in Section 1001.28.

(b) After consideration of the probation department's report, the report of the regional center, and the report of the prosecutor relating to his or her recommendation for or against diversion, and any other relevant information, the court shall determine if the defendant shall be diverted under either dual or single agency supervision, and referred for habilitation or rehabilitation diversion pursuant to this chapter. If the court does not deem the defendant a person who would benefit by diversion at the time of the hearing, the suspended criminal proceedings may be reinstated, or such other disposition as authorized by law may be made, and diversion may be ordered at a later date.

(c) Where a dual agency diversion program is ordered by the court, the regional center shall submit a report to the probation department on the defendant's progress in the diversion program not less than every six months. Within five judicial days after receiving the regional center's report, the probation department shall submit its report on the defendant's progress in the diversion program, with the full report of the regional center appended, to the court and to the prosecutor. Where single agency diversion is ordered by the court, the regional center alone shall report the defendant's progress to the court and to the prosecutor not less than every six months.

**PC 1001.28: Time Limitations and Report Requirements for Diversion Program for Individual with Mental Retardation.**

*Diversion programs for individuals with mental retardation are limited to two years. During that time progress reports must be made every six months.*

The period during which criminal proceedings against the defendant may be diverted shall be no longer than two years. The responsible agency or agencies shall file reports on the defendant's progress in the diversion program with the court and with the prosecutor not less than every six months.

(a) Where dual agency diversion has been ordered, the probation department shall be responsible for the progress reports. The probation department shall append to its own report a copy of the regional center's assessment of the defendant's progress.

(b) Where single agency diversion has been ordered, the regional center alone shall be responsible for the progress reports.

**PC 1026: State Residential Facility Commitment of a Defendant Found Not Guilty by Reason of Insanity.**

*If a criminal defendant is found not guilty by reason of insanity, and sanity is not recovered, the court may confine the individual to a State Residential Facility for the mentally disordered, or to another public or private treatment facility. Before such a decision is made, the community program director evaluates the individual, and submits a report to the court recommending either State Residential Facility or other facility confinement, or outpatient status for the individual. No placement order can be made by the court without this evaluation and report being made. Until sanity has been restored to the court's satisfaction, the individual can not be released from confinement, parole, or outpatient status, but if confined may be transferred between facilities. Such transfers may be contested through a court hearing process.*

(a) When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only such other plea or pleas had been entered, and in that trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In that trial, the jury shall return a verdict either that the defendant was sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding is that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility approved by the community program director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2.

(b) Prior to making the order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, 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 placed on outpatient status or confined in a state hospital or other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee. If, however, it appears to the court that the sanity of the defendant has been recovered fully, the defendant shall be remanded to the custody of the sheriff until the issue of sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court which committed the person shall, after notice and hearing, find and determine that the person's sanity has been restored. Nothing in this section shall prevent the transfer of the patient from one state hospital to any other state hospital by proper authority. Nothing in this section shall prevent the transfer of the patient to a hospital in another state in the manner provided in Section 4119 of the Welfare and Institutions Code.

(c) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital 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, order the defendant transferred to a state hospital or to another public or private treatment facility approved by the community program director. Where either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing which shall be held if the court determines that sufficient grounds exist. At that hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same procedures and standards of proof as used in conducting probation revocation hearings pursuant to Section 1203.2.

(d) 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.

(e) When the court, after considering the placement recommendation of the community program director required in subdivision (b), orders that the defendant be confined in a state hospital or other public or private treatment facility, the court shall provide copies of the following documents which shall be taken with the defendant to the state hospital or other treatment facility where the defendant is to be confined:

- (1) The commitment order, including a specification of the charges.
- (2) A computation or statement setting forth the maximum term of commitment in accordance with Section 1026.5.
- (3) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.
- (4) State Summary Criminal History information.
- (5) Any arrest reports prepared by the police department or other law enforcement agency.
- (6) Any court-ordered psychiatric examination or evaluation reports.
- (7) The community program director's placement recommendation report.

(f) If the defendant is confined in a state hospital or other treatment facility as an inpatient, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the community program director of the county of commitment, or a designee, setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the prosecutor and defense counsel.

(g) When directing that the defendant be confined in a state hospital pursuant to subdivision (a), the court shall select the state hospital in accordance with the policies established by the State Department of Mental Health.

(h) For purposes of this section and Sections 1026.1 to 1026.6, inclusive, "community program director" means the person, agency, or entity designated by the State Department of Mental Health pursuant to Section 1605 of this code and Section 5709.8 of the Welfare and Institutions Code.

### **1026.1: Release of Individual Found Not Guilty by Reason of Insanity.**

*An individual who was committed to a State Residential Facility or a treatment facility after having been found not guilty of a felony by reason of insanity (PC1026) shall be released only when it has been determined that sanity has been restored, pursuant to PC 1026.2, or upon expiration of the maximum term of commitment as provided in PC Section 1026.5(a), except when the commitment may be extended due to individual having a mental disorder that poses a substantial danger of physical harm, pursuant to PC 1026.5(b), or as provided for in "Title 15 (commencing with Section 1600) of Part 2."*

A person committed to a state hospital or other treatment facility under the provisions of Section 1026 shall be released from the state hospital or other treatment facility only under one or more of the following circumstances:

- (a) Pursuant to the provisions of Section 1026.2.



(b) Upon expiration of the maximum term of commitment as provided in subdivision (a) of Section 1026.5, except as such term may be extended under the provisions of subdivision (b) of Section 1026.5.

(c) As otherwise expressly provided in Title 15 (commencing with Section 1600) of Part 2.

**PC 1026.2: Application for Release Upon Restoration of Sanity.**

*An individual, or the facility's medical director, may apply for release from a State Residential Facility if 180 days has passed since commitment, on an assertion that sanity has been restored. Pending the holding of a hearing, the State Residential Facility will produce a report on the individual's treatment and status, and the individual may be moved to another facility for continued treatment, as long as it is not a jail. If the court finds no danger to others would result, the individual can be placed in a secure treatment conditional release program, through the efforts of the community program director, for one year. After the year is over, a trial will be held to determine whether the individual's sanity has been restored.*

(a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600). The court shall give notice of the hearing date to the prosecuting attorney, the community program director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). However, a county jail may not be designated unless the services specified in subdivision (b) are provided and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(d) No hearing upon the application shall be allowed until the person committed has been confined or placed on outpatient status for a period of not less than 180 days from the date of the order of commitment.

(e) The court shall hold a hearing to determine whether the person applying for restoration of sanity would be a danger to the health and safety of others, due to mental defect, disease, or disorder, if under supervision and treatment in the community. If the court at the hearing determines the applicant will not be a danger to the health and safety of others, due to mental defect, disease, or disorder, while under supervision and treatment in the community, the court shall order the applicant placed with an appropriate forensic conditional release program for one year. All or a substantial portion of the program shall include outpatient supervision and

treatment. The court shall retain jurisdiction. The court at the end of the one year, shall have a trial to determine if sanity has been restored, which means the applicant is no longer a danger to the health and safety of others, due to mental defect, disease, or disorder. The court shall not determine whether the applicant has been restored to sanity until the applicant has completed the one year in the appropriate forensic conditional release program, unless the community program director sooner makes a recommendation for restoration of sanity and unconditional release as described in subdivision (h). The court shall notify the persons required to be notified in subdivision (a) of the hearing date.

(f) If the applicant is on parole or outpatient status and has been on it for one year or longer, then it is deemed that the applicant has completed the required one year in an appropriate forensic conditional release program and the court shall, if all other applicable provisions of law have been met, hold the trial on restoration of sanity as provided for in this section.

(g) Before placing an applicant in an appropriate forensic conditional release program, the community program director shall submit to the court a written recommendation as to what forensic conditional release program is the most appropriate for supervising and treating the applicant. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the court record. Sections 1605 to 1610, inclusive, shall be applicable to the person placed in the forensic conditional release program unless otherwise ordered by the court.

(h) If the court determines that the person should be transferred to an appropriate forensic conditional release program, the community program director or a designee shall make the necessary placement arrangements, and, within 21 days after receiving notice of the court finding, the person shall be placed in the community in accordance with the treatment and supervision plan, unless good cause for not doing so is made known to the court.

During the one year of supervision and treatment, if the community program director is of the opinion that the person is no longer a danger to the health and safety of others due to a mental defect, disease, or disorder, the community program director shall submit a report of his or her opinion and recommendations to the committing court, the prosecuting attorney, and the attorney for the person. The court shall then set and hold a trial to determine whether restoration of sanity and unconditional release should be granted. The trial shall be conducted in the same manner as is required at the end of one full year of supervision and treatment.

(I) If at the trial for restoration of sanity the court rules adversely to the applicant, the court may place the applicant on outpatient status, pursuant to Title 15 (commencing with Section 1600) of Part 2, unless the applicant does not meet all of the requirements of Section 1603.

(j) If the court denies the application to place the person in an appropriate forensic conditional release program or if restoration of sanity is denied, no new application may be filed by the person until one year has elapsed from the date of the denial.

(k) In any hearing authorized by this section, the applicant shall have the burden of proof by a preponderance of the evidence.

(l) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or of the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600).

### **PC 1367: Incompetence to Stand Trial While Mentally Disordered.**

*A mentally incompetent person can not be put on trial. PC refers to persons who are incompetent to stand trial for a felony. PC 1367.1 and PC 1370.01 apply to persons charged with a misdemeanor who are incompetent to stand trial. PC 1370.1 applies to persons charged with a misdemeanor who are incompetent because of a mental disorder, but who also have a developmental disability.*

(a) A person cannot be tried or adjudged to punishment while that person is mentally incompetent. A defendant is mentally incompetent for purposes of this chapter 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.

(b) Section 1370 shall apply to a person who is charged with a felony and is incompetent as a result of a mental disorder. Sections 1367.1 and 1370.01 shall apply to a person who is charged with a misdemeanor or misdemeanors only, and the judge finds reason to believe that the defendant is mentally disordered, and may, as a result of the mental disorder, be incompetent to stand trial. Section 1370.1 shall apply to a person who is incompetent as a result of a developmental disability and shall apply to a person who is incompetent as a result of a mental disorder, but is also developmentally disabled.

**PC 1367.1: Determination of Defendant's Competence to Stand Trial for Misdemeanor Offenses.**

*The court may order a defendant charged with a misdemeanor to undergo evaluation and treatment pursuant to PC 4011.6, if a mental disorder making the person incompetent to stand trial is believed present. If despite treatment the defendant is believed incompetent to stand trial, the judge can then order a competency hearing pursuant to PC 1368.1 and 1369. If the defendant is found mentally incompetent, then the provisions of PC 1370.01 apply.*

(a) During the pendency of an action and prior to judgment in a case when the defendant has been charged with a misdemeanor or misdemeanors only, if the defendant's behavior or other evidence leads the judge to conclude that there is reason to believe that the defendant is mentally disordered and as a result may be incompetent to stand trial, the judge shall state this conclusion and his or her reasons in the record. The judge shall inquire of the attorney for the defendant whether, in the opinion of the attorney, the defendant is mentally disordered. If the defendant is not represented by counsel, the court shall appoint counsel. At the request of the defendant or his or her counsel or upon its own motion, the court shall recess the proceedings for as long as may be reasonably necessary to permit counsel to confer with the defendant and to form an opinion as to whether the defendant is mentally disordered at that time.

(b) If counsel informs the court that he or she believes the defendant is or may be mentally disordered, the court shall order that the defendant be referred for evaluation and treatment in accordance with Section 4011.6. If counsel informs the court that he or she believes the defendant is not mentally disordered, the court may nevertheless order that the defendant be referred for evaluation and treatment in accordance with Section 4011.6. The judge may order the facility providing evaluation and treatment to provide the court a copy of the discharge summary at the conclusion of evaluation and treatment.

(c) Except as provided in Section 1368.1, when an order for evaluation and treatment in accordance with Section 4011.6 has been issued, all proceedings in the criminal prosecution shall be suspended until the evaluation and treatment has been concluded.

If a jury has been impaneled and sworn to try the defendant, the jury may be discharged if it appears to the court that undue hardship to the jurors would result if the jury is retained on call.

(d) When evaluation and treatment ordered pursuant to this section has concluded, the defendant shall be returned to court. If it appears to the judge that the defendant is competent to stand trial, the criminal process shall resume, the trial on the offense or offenses charged shall proceed, and judgment may be pronounced. If the judge has reason to believe that the defendant may be incompetent to stand trial despite the treatment ordered pursuant to this section, the judge may order that the question of the defendant's mental competence to stand

trial is to be determined in a hearing held pursuant to Sections 1368.1 and 1369. If the defendant is found mentally incompetent, then the provision of Section 1370.01 shall apply.

**PC 1368: Order for a Defendant's Mental Competence Hearing.**

*The court may order a mental competence hearing for a defendant prior to judgment, pursuant to PC 1368.1 and 1369. The defendant's trial is suspended pending the outcome of the hearing.*

(a) If, during the pendency of an action and prior to judgment, a doubt arises in the mind of the judge as to the mental competence of the defendant, he or she shall state that doubt in the record and inquire of the attorney for the defendant whether, in the opinion of the attorney, the defendant is mentally competent. If the defendant is not represented by counsel, the court shall appoint counsel. At the request of the defendant or his or her counsel or upon its own motion, the court shall recess the proceedings for as long as may be reasonably necessary to permit counsel to confer with the defendant and to form an opinion as to the mental competence of the defendant at that point in time.

(b) If counsel informs the court that he or she believes the defendant is or may be mentally incompetent, the court shall order that the question of the defendant's mental competence is to be determined in a hearing which is held pursuant to Sections 1368.1 and 1369. If counsel informs the court that he or she believes the defendant is mentally competent, the court may nevertheless order a hearing. Any hearing shall be held in the superior court.

(c) Except as provided in Section 1368.1, when an order for a hearing into the present mental competence of the defendant has been issued, all proceedings in the criminal prosecution shall be suspended until the question of the present mental competence of the defendant has been determined.

If a jury has been impaneled and sworn to try the defendant, the jury shall be discharged only if it appears to the court that undue hardship to the jurors would result if the jury is retained on call.

If the defendant is declared mentally incompetent, the jury shall be discharged.

**PC 1368.1: Defense Counsel's Objections to PC 1368 Competency Hearing.**

*The defense counsel for a person for whom a competency hearing under PC 1368 has been ordered, may move for immediate dismissal of charges on the grounds that the defendant is not guilty, or raise other objections. The process differs based on whether the offense charged is a felony or a misdemeanor. The defendant can not be certified as incompetent prior to a ruling on the defense counsel's objections .*

(a) If the action is on a complaint charging a felony, proceedings to determine mental competence shall be held prior to the filing of an information unless the counsel for the defendant requests a preliminary examination under the provisions of Section 859b. At such preliminary examination, counsel for the defendant may (1) demur, (2) move to dismiss the complaint on the ground that there is not reasonable cause to believe that a felony has been committed and that the defendant is guilty thereof, or (3) make a motion under Section 1538.5.

(b) If the action is on a complaint charging a misdemeanor, counsel for the defendant may (1) demur, (2) move to dismiss the complaint on the ground that there is not reasonable cause to believe that a public offense has been committed and that the defendant is guilty thereof, or (3) make a motion under Section 1538.5.

(c) In ruling upon any demurrer or motion described in subdivision (a) or (b), the court may hear any matter which is capable of fair determination without the personal participation of the defendant.

(d) A demurrer or motion described in subdivision (a) or (b) shall be made in the court having jurisdiction over the complaint. The defendant shall not be certified until the demurrer or motion has been decided.

**PC 1369: Confinement Upon Question of Individual's Mental Competence.**

*When a criminal defendant's mental competence is in question, the court appoints experts to examine the individual. If the individual appears to have a developmental disability, the individual may be confined in a residential facility or a State Residential Facility upon recommendation of the appropriate regional center, while the regional center conducts the examination. The court, or the jury in a jury trial, may subsequently find the individual to lack mental competence based on a preponderance of the evidence.*

A trial by court or jury of the question of mental competence shall proceed in the following order:

(a) The court shall appoint a psychiatrist or licensed psychologist, and any other expert the court may deem appropriate, to examine the defendant. In any case where the defendant or the defendant's counsel informs the court that the defendant is not seeking a finding of mental incompetence, the court shall appoint two psychiatrists, licensed psychologists, or a combination thereof. One of the psychiatrists or licensed psychologists may be named by the defense and one may be named by the prosecution. If it is suspected the defendant is developmentally disabled, the court shall appoint the director of the regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, or the designee of the director, to examine the defendant. The court may order the developmentally disabled defendant to be confined for examination in a residential facility or state hospital.

The regional center director shall recommend to the court a suitable residential facility or state hospital. Prior to issuing an order pursuant to this section, the court shall consider the recommendation of the regional center director. While the person is confined pursuant to order of the court under this section, he or she shall be provided with necessary care and treatment.

(b) (1) The counsel for the defendant shall offer evidence in support of the allegation of mental incompetence.

(2) If the defense declines to offer any evidence in support of the allegation of mental incompetence, the prosecution may do so.

(c) The prosecution shall present its case regarding the issue of defendant's present mental competence.

(d) Each party may offer rebutting testimony, unless the court, for good reason in furtherance of justice, also permits other evidence in support of the original contention.

(e) When the evidence is concluded, unless the case is submitted without final argument, the prosecution shall make its final argument and the defense shall conclude with its final argument to the court or jury.

(f) In a jury trial, the court shall charge the jury, instructing them on all matters of law necessary for the rendering of a verdict. It shall be presumed that the defendant is mentally competent unless it is proved by a preponderance of the evidence that the defendant is mentally incompetent. The verdict of the jury shall be unanimous.

**PC 1370: Facility Commitment for Individual Found Incompetent to Stand Trial for a Felony.**

*When a felony case defendant is found mentally incompetent to stand trial, the individual is ordered to a State Residential Facility or other appropriate facility or program. If the offense is a certain type of violent felony as defined in PC 667.5 and PC 290 (see Appendix 2, p. 137), the State Residential Facility or treatment facility must be a secure treatment facility (see Appendix 1, p. 135), except in unusual circumstances for PC 290 offenses when the public safety is not endangered. The individual will not be placed on outpatient status if there is a danger to the health or safety of others. Prior to being committed, the individual will be evaluated by the community program director for appropriate placement. Specified records and documentation of the individual's case and history shall be sent to the facility. Within 90 days of commitment, a written progress report is made to the court and the community program director. Such reports may follow at subsequent six month intervals. After three years from the date of commitment, or a time equal to the maximum term of imprisonment for the charged offense, the court assesses the need for conservatorship proceedings. Even if criminal charges are dropped, the individual may still be held through as a result of proceedings under the Lanterman-Petris-Short Act.*

(a) (1) (A) 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.

(B) If the defendant is found mentally incompetent, the trial or 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 hospital for the care and treatment of the mentally disordered, or to any other available public or private 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 hospital 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 hospital 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.

(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 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 hospital or treatment facility pursuant to this subdivision unless the state hospital 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.

(2) Prior to making the order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, 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 committed to a state hospital or to any other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee.

(3) When the court orders that the defendant be confined in a state hospital or other public or private treatment facility, the court shall provide copies of the following documents which shall be taken with the defendant to the state hospital or other 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 community program director's placement recommendation report.

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

(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 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 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 hospital pursuant to this subdivision, the court shall select the hospital in accordance with the policies established by the State Department of Mental Health.

(6) (A) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital 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 a state hospital 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). Where 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 hospital 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).

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital 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. Where 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 hospital or other 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 community program 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 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. 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 community program director or a designee.

(2) 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.

(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. The court shall transmit a copy of its order to the community program director or a designee.

(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) 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, whichever is shorter, 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 any defendant is returned to the court pursuant to paragraph (1) or (2) of subdivision (b) or paragraph (1) of this subdivision and it appears to the court that the defendant is gravely disabled, as defined in paragraph (2) 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 community program director or a designee and shall notify the community program director or a designee of the outcome of the proceedings.

(3) Where 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) 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.

(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 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 Mental Health 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 mental hospitals, 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.

### **PC 1370.1: Commitment Upon Finding of Individual's Mental Incompetence.**

*If a criminal defendant is found to be mentally incompetent, the court will order confinement in a State Residential Facility or a developmental center, or elsewhere approved of by the regional center. The confinement will be in a secure treatment facility, when the individual poses a danger to the health and safety of others. No individual may be confined under this law without first having undergone evaluation by the regional center. Within 90 days of the individual's commitment, the facility (State Residential Facility) shall make a written report regarding the individual's progress toward becoming mentally competent to the court and the regional center. If the report states that there is no substantial likelihood that the defendant has become mentally competent, the committing court shall order the defendant to be returned to court for proceedings. After three years of confinement, or a period of time equal to the maximum imprisonment for the most serious offense charged, the court will take up the individual's case again. If criminal charges have been dismissed, but the individual is still not mentally competent, the individual may continue to be confined, under the applicable provisions of the Lanterman-Petris-Short Act, or upon a petition filed pursuant to Section 6502 of the Welfare and Institutions Code regarding individuals with mental retardation.*

(a) (1) (A) 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.

(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) of Part 2.

(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 age 18, 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 mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

(2) Prior to making the order directing 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. No person shall 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 any finding of mental incompetence pursuant to this chapter arising out of a complaint charging a felony offense specified in Section 290 or any 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 any 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 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) 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 any other 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) 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 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, whichever is shorter, any 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) 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.

(d) Notwithstanding any other provision of this section, 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, 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.

**PC 1370.4: Outpatient Treatment for Individual When Not a Danger to Others.**

*When the regional center director believes an individual who is being evaluated for competence to stand trial would benefit from outpatient treatment, and is not a danger to others, the individual may be ordered to accept treatment as an outpatient, instead of being transferred to an institution.*

If, in the evaluation ordered by the court under Section 1370.1, the regional center director, or a designee, is of the opinion that the defendant is not a danger to the health and safety of others while on outpatient treatment and will benefit from such treatment, and has obtained the agreement of the person in charge of a residential facility and of the defendant that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant, the court may order the defendant to undergo outpatient treatment. All of the provisions of Title 15 (commencing with Section 1600) of Part 2 shall apply where a defendant is placed on outpatient status under this section, except that the regional center director shall be substituted for the community program director, the Director of Developmental Services for the Director of Mental Health, and a residential facility for a treatment facility for the purposes of this section.

**PC 2684: Confinement of Mentally Ill Felon to State Residential Facility.**

*An imprisoned individual who is "mentally ill, mentally deficient, or insane" may be transferred to a state hospital or State Residential Facility for treatment. For this to occur, the director of CDC must agree with the director of DMH, or DDS, as the case may be, and the Board of Prison Terms, that the transfer is appropriate. The individual is to remain at the institution until the hospital's or developmental center's director determines the individual is not able to benefit further from the care and treatment being given.*

(a) If, in the opinion of the Director of Corrections, the rehabilitation of any mentally ill, mentally deficient, or insane person confined in a state prison may be expedited by treatment at any one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of Corrections, with the approval of the Board of Prison Terms for persons sentenced pursuant to subdivision (b) of Section 1168, shall certify that fact to the director of the appropriate department who shall evaluate the prisoner to determine if he or she would benefit from care and treatment in a state hospital. If the director of the appropriate department so determines, the superintendent of the hospital shall receive the prisoner and keep him or her until in the opinion of the superintendent the person has been treated to the extent that he or she will not benefit from further care and treatment in the state hospital.

(b) Whenever the Director of Corrections receives a recommendation from the court that a defendant convicted of a violation of Section 646.9 and sentenced to confinement in the state prison would benefit from treatment in a state hospital pursuant to subdivision (a), the director shall consider the recommendation. If appropriate, the director shall certify that the rehabilitation of the defendant may be expedited by treatment in a state hospital and subdivision (a) shall apply.

## California Probate Code

### **Probate Code 2250: Appointment of Temporary Guardian or Conservator.**

*The court may appoint a temporary guardian or conservator of an individual, in accordance with the processes set forth in this law.*

(a) On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of:

- (1) A temporary guardian of the person or estate or both.
- (2) A temporary conservator of the person or estate or both.

(b) The petition shall state facts which establish good cause for appointment of the temporary guardian or temporary conservator. The court, upon such petition or other showing as it may require, may appoint a temporary guardian of the person or estate or both, or a temporary conservator of the person or estate or both, to serve pending the final determination of the court upon the petition for the appointment of the guardian or conservator.

(c) Unless the court for good cause otherwise orders, not less than five days before the appointment of the temporary guardian or temporary conservator, notice of the proposed appointment shall be personally delivered to the proposed ward if 12 years of age or older or to the proposed conservatee, to the parent or parents if the proposed ward is a minor, and to any person having a valid visitation order with the proposed ward that was effective at the time of the filing of the petition. In a proceeding for temporary guardianship of the person, evidence that a custodial parent has died or become incapacitated and that the petitioner is the nominee of the custodial parent may constitute good cause for the court to order that this notice not be delivered.

(d) If a temporary guardianship is granted ex parte and the hearing on the general guardianship petition is not to be held within 30 days of the granting of the temporary guardianship, the court shall set a hearing within 30 days to reconsider the temporary guardianship. Notice of the hearing for reconsideration of the temporary guardianship shall be provided pursuant to Section 1511, except that the court may for good cause shorten time for notice of the hearing.

(e) Visitation orders with the proposed ward granted prior to the filing of a petition for temporary guardianship shall remain in effect, unless for good cause the court orders otherwise.

(f) One petition may request the appointment of a guardian or conservator and also the appointment of a temporary guardian or conservator or these appointments may be requested in separate petitions.

(g) If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed.

(h) If for any reason a vacancy occurs in the office of guardian or conservator, the court, on a petition filed under subdivision (a) or on its own motion, may appoint a temporary guardian or conservator to exercise the powers of the guardian or conservator until a new guardian or conservator is appointed.

### **Probate Code 2351.5: Limited Conservatorship Powers.**

*Courts may grant a limited conservatorship. The limited conservator may be granted responsibility for the general care, custody, and control of the limited conservatee, and secures habilitation or treatment, training, health and other services that aid the development of maximum self-reliance and independence. A limited conservator may be*

*granted certain additional specific powers or controls, including the ability to choose the limited conservatee's residence.*

(a) Subject to subdivision (b):

(1) The limited conservator has the care, custody, and control of the limited conservatee.

(2) The limited conservator shall secure for the limited conservatee such habilitation or treatment, training, education, medical and psychological services, and social and vocational opportunity as appropriate and as will assist the limited conservatee in the development of maximum self-reliance and independence.

(b) A limited conservator does not have any of the following powers or controls over the limited conservatee unless such powers or controls are specifically requested in the petition for appointment of a limited conservator and granted by the court in its order appointing the limited conservator:

(1) To fix the residence or specific dwelling of the limited conservatee.

(2) Access to the confidential records and papers of the limited conservatee.

(3) To consent or withhold consent to the marriage of the limited conservatee.

(4) The right of the limited conservatee to contract.

(5) The power of the limited conservatee to give or withhold medical consent.

(6) The limited conservatee's right to control his or her own social and sexual contacts and relationships.

(7) Decisions concerning the education of the limited conservatee.

(c) Any limited conservator, the limited conservatee, or any relative or friend of the limited conservatee may apply by petition to the superior court of the county in which the proceedings are pending to have the limited conservatorship modified by the elimination or addition of any of the powers which must be specifically granted to the limited conservator pursuant to subdivision (b). The petition shall state the facts alleged to establish that the limited conservatorship should be modified. The granting or elimination of such powers is discretionary with the court. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(d) The limited conservator or any relative or friend of the limited conservatee may appear and oppose the petition. The court shall hear and determine the matter according to the laws and procedures relating to the trial of civil actions, including trial by jury if demanded. If any of the powers which must be specifically granted to the limited conservator pursuant to subdivision (b) are granted or eliminated, new letters of limited conservatorship shall be issued reflecting the change in the limited conservator's powers.

### **Probate Code 2352: Choice of Residence by Guardian or Conservator.**

*A guardian or a conservator may choose where the individual for whom they care is to reside, so long as the place selected serves the best interests of the individual, and is the "least restrictive appropriate setting" available that can meet the needs of the individual.*

(a) The guardian or conservator may fix the residence of the ward or conservatee at either of the following:

(1) Any place within this state without the permission of the court. In fixing the residence, the guardian or conservator shall select the least restrictive appropriate setting which is available and necessary to meet the needs of the ward or conservatee, and which is in the best interests of the ward or conservatee. In making a determination of the appropriate level of care for wards or conservatees, guardians or conservators may utilize the statewide nursing home preadmission screening program or a comparable assessment by a community-based case management organization.

(2) A place not within this state if permission of the court is first obtained.



(b) An order under paragraph (2) of subdivision (a) shall require the guardian or conservator either to return the ward or conservatee to this state, or to cause a guardianship or conservatorship proceeding or its equivalent to be commenced in the place of the new residence, when the ward or conservatee has resided in the place of new residence for a period of four months or such longer or shorter period as is specified in the order.

(c) The guardian or conservator shall promptly mail to the court notice of all changes in the residence of the ward or conservatee.

(d) This section does not apply where the court has made an order under Section 2351 pursuant to which the conservatee retains the right to fix his or her own residence.

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## California Welfare and Institutions Code

### **WIC 702.3: Evaluation and Placement of Insane Criminally Offending Minor.**

*When a court finds that a minor was insane at the time the minor committed a criminal offense, and remains insane, the county community program director will submit an evaluation of the individual within 15 days, recommending a placement option for the individual. Based on this evaluation, the minor may be confined to a State Residential Facility for mentally disordered people for a minimum of 180 days of treatment. Subsequent court action may require that the minor remain confined to the State Residential Facility, if release would create "a substantial danger of physical harm to others."*

Notwithstanding any other provision of law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no allegation of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it appears to the court that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the community program director, or the court may order the minor to undergo outpatient treatment as specified in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. The court shall transmit a copy of its order to the community program director or his or her designee. If the allegations of the petition specifying any felony are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the community program director for a minimum of 180 days, before the minor may be released on outpatient treatment. Prior to making the order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the community program director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of the order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his or her sanity the minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in Section 1026.2 of the Penal Code, find and determine that his or her sanity has been restored.

(c) When the court, after considering the placement recommendation for the community program director required in subdivision (b), orders that the minor be confined in a state hospital or other public or private mental health facility, the court shall provide copies of the following documents which shall be taken with the minor to the state hospital or other treatment facility where the minor is to be confined:

- (1) The commitment order, including a specification of the charges.
- (2) The computation or statement setting forth the maximum time of commitment in accordance with Section 1026.5 and subdivision (e).
- (3) A computation or statement setting forth the amount of credit, if any, to be deducted from the maximum term of commitment.
- (4) State Summary Criminal History information.

- (5) Any arrest or detention reports prepared by the police department or other law enforcement agency.
- (6) Any court-ordered psychiatric examination or evaluation reports.
- (7) The community program director's placement recommendation report.
- (d) The procedures set forth in Sections 1026, 1026.1, 1026.2, 1026.3, 1026.4, 1026.5, and 1027 of the Penal Code, and in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.
- (e) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607, unless, at the conclusion of the commitment, by reason of a mental disease, defect, or disorder, he or she represents a substantial danger of physical harm to others, in which case the commitment for care and treatment beyond the jurisdictional age may be extended by proceedings in superior court in accordance with and under the circumstances specified in subdivision (b) of Section 1026.5 of the Penal Code.
- (f) The provision of a jury trial in superior court on the issue of extension of commitment shall not be construed to authorize the determination of any issue in juvenile court proceedings to be made by a jury.

**WIC 1756: Relocation of Individual from CYA to DDS Facility.**

*The CYA Director, in consultation with either DMH or DDS (as the case may be) can move an incarcerated individual to a state hospital or State Residential Facility for appropriate care and treatment. The individual will be returned to CYA when the receiving department concludes that no further benefit can be gained by keeping the individual in the state hospital or State Residential Facility. An individual placed in a state hospital or State Residential Facility under this law will be released when their sentence is completed, unless a petition for continued detention of that person is filed.*

Notwithstanding any other provision of law, if, in the opinion of the Director of the Youth Authority, the rehabilitation of any mentally disordered, or developmentally disabled person confined in a state correctional school may be expedited by treatment at one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of the Youth Authority shall certify that fact to the director of the appropriate department who may authorize receipt of the person at one of the hospitals for care and treatment. Upon notification from the director that the person will no longer benefit from further care and treatment in the state hospital, the Director of the Youth Authority shall immediately send for, take, and receive the person back into a state correctional school. Any person placed in a state hospital under this section who is committed to the authority shall be released from the hospital upon termination of his or her commitment unless a petition for detention of that person is filed under the provisions of Part 1 (commencing with Section 5000) of Division 5.

**WIC 4416: Departmental Jurisdiction over Developmental Disabilities.**

*DDS has jurisdiction over the care, custody, and treatment of developmentally disabled persons, as provided in law.*

Unless otherwise indicated in this code, the State Department of Developmental Services has jurisdiction over the execution of the laws relating to the care, custody, and treatment of developmentally disabled persons, as provided in this code.

As used in this division, "establishment" and "institutions" include every hospital, sanitarium, boarding home, or other place receiving or caring for developmentally disabled persons.

### **WIC 4418.3: IPP Process During Move-out from DC.**

*To make sure an individual's move from a developmental center to the community is carefully planned through the coordinated efforts of the regional center, developmental center, and regional resource development project to help assure success, this law specifies an IPP process tailored to assist in the transition, special transition team meetings, and frequent direct contact between the regional center and the individual, especially in the early months following the move.*

(a) It is the intent of the Legislature to ensure that the transition process from a developmental center to a community living arrangement is based upon the individual's needs, developed through the individual program plan process, and ensures that needed services and supports will be in place at the time the individual moves. It is further the intent of the Legislature that regional centers, developmental centers, and regional resource development projects coordinate with each other for the benefit of their activities in assessment, in the development of individual program plans, and in planning, transition, and deflection, and for the benefit of consumers.

(b) As individuals are identified for possible movement to the community, an individual planning meeting shall be initiated by the developmental center, which shall notify the planning team, pursuant to subdivision (j) of Section 4512, and the regional resource development project of the meeting. The regional resource development project shall make services available to the developmental center and the regional center, including, but not limited to, consultations with the planning teams and the identification of services and supports necessary for the consumer to succeed in community living.

(c) The development of the individual program plan shall be consistent with Sections 4646 and 4646.5. For the purpose of this section, the planning team shall include developmental center staff knowledgeable about the service and support needs of the consumer.

(d) Regional resource development project services may include providing information in an understandable form to consumers and, where appropriate, their families, conservators, legal guardians, or authorized representatives, that will assist them in making decisions about community living and services and supports. This information may include affording the consumer the opportunity to visit a variety of community living arrangements that could meet his or her needs. If the visits are not feasible, as determined by the planning team, a family member or other representative of the consumer may conduct the visits. Regional resource development projects may be requested to facilitate these visits. The availability of this service shall be made known by the planning team to consumers and, where appropriate, their families, conservators, legal guardians, or authorized representative.

(e) Once the individual program plan is completed and providers of services and supports are identified and agreed to, pursuant to subdivision (b) of Section 4646.5, and no less than 15 days prior to the move, unless otherwise ordered by a court, a transition conference, which may be facilitated by a regional resource development project, shall be held. Participants in the transition conference shall include, but not be limited to, the consumer, where appropriate the consumer's parents, legal guardian, conservator, or authorized representative, a regional center representative, a developmental center representative, and a representative of each provider of primary services and supports identified in the individual program plan. This meeting may take place in the catchment area to which the consumer is moving. If necessary, conferees may participate by telephone or video conference. The purpose of this conference shall be to ensure a smooth transition from the developmental center to the community.

(f) The department, through the appropriate regional resource development project, shall provide, in cooperation with regional centers and developmental centers, followup services to

help ensure a smooth transition to the community. Followup services shall include, but shall not be limited to, all of the following:

(1) Regularly scheduled as well as on an as-needed basis, contacts and visits with consumers and service providers during the 12 months following the consumer's movement date.

(2) Participation in the development of an individual program plan in accordance with Sections 4646 and 4646.5.

(3) Identification of issues that need resolution.

(4) Arrangement for the provision of developmental center services, including, but not limited to, medication review, crisis services, and behavioral consultation.

(g) To ascertain that the individual program plan is being implemented, that planned services are being provided, and that the consumer and, where appropriate the consumer's parents, legal guardian, or conservator, are satisfied with the community living arrangement, the regional center shall schedule face-to-face reviews no less than once every 30 days for the first 90 days. Following the first 90 days, and following notification to the department, the regional center may conduct these reviews less often as specified in the individual program plan.

(h) The regional center and the regional resource development project shall coordinate their followup reviews required pursuant to subdivisions (f) and (g) and shall share with each other information obtained during the course of the followup visits.

#### **WIC 4418.7: Dealing with Individuals At Risk for DC Placement.**

*Whenever it is evident that an individual's community placement is at risk of failing, the regional center will notify the family and/or conservator, and the regional resource development project, which will immediately arrange for the situation to be assessed. The regional resource development project will work with the regional center to make sure needed emergency services and supports are available. An IPP meeting, including the regional resource development project's representative, will be held as soon as possible to deal with any ongoing services and supports needs. If these efforts cannot prevent failure of the community placement, the regional resource development project will immediately facilitate that individual's admission to a developmental center. DDS will collect aggregate data on these activities and keep the information available to the legislature.*

(a) If the regional center determines, or is informed by the consumer's parents, legal guardian, or conservator, or authorized representative that the community placement of a consumer is at risk of failing, and that admittance to a state developmental center is a likelihood, the regional center shall immediately notify the appropriate regional resource development project, the consumer, and the consumer's parents, legal guardian, or conservator.

(b) In these cases, the regional resource development project shall immediately arrange for an assessment of the situation, including, visiting the consumer, if appropriate, determining barriers to successful integration, and recommending the most appropriate means necessary to assist the consumer to remain in the community. If, based on the assessment, the regional resource development project determines that additional or different services and supports are necessary, the department shall ensure that the regional center provides those services and supports on an emergency basis. An individual program plan meeting, including the regional resource development project's representative, shall be convened as soon as possible to review the emergency services and supports and determine the consumer's ongoing needs for services and supports. The regional resource development project shall follow up with the regional center as to the success of the recommended interventions until the consumer's living arrangement is stable.

(c) If the regional resource development project, in consultation with the regional center, the consumer, and the consumer's parents, legal guardian, or conservator, when appropriate, determines that admittance to a state developmental center is necessary to protect the health

and welfare of the consumer prevent a substantial risk to the individual's health and safety , the regional resource development project shall immediately facilitate that admission.

(d) The department shall collect data on the outcomes of efforts to assist at-risk consumers to remain in the community. The department shall make aggregate data on the implementation of the requirements of this section available, upon request.

**WIC 4426: Department of Developmental Services Review of Court-committed Individuals with Mental Retardation.**

*DDS has the right to investigate the situation of any individual with mental retardation who is subject to a court commitment other than to a State Residential Facility, regarding how the individual is being cared for by relatives, a guardian, or a conservator. DDS may go to Superior Court to seek certification that the individual is improperly cared for, or that a danger to the public exists, and to have the individual ordered confined in a State Residential Facility.*

The department may inquire into the manner in which any mentally retarded person subject to commitment, not confined in a state hospital, is cared for and maintained. If, in its judgment, any such person is not properly and suitably cared for, it may apply to a judge of the superior court for an order to commit him to a state hospital under the provisions of this code. Such order shall not be made unless the judge finds, and certifies in the order, that such person is not properly or suitably cared for by his relatives or guardian or conservator, or that it is dangerous to the public to allow him to be cared for and maintained by such relatives or guardian or conservator.

**WIC 4508: Provisional Community Re-entry from Developmental Center.**

*An individual with a developmental disability living in a developmental center may voluntarily leave for a maximum 12-month period of provisional community re-entry, while retaining the right to return to the developmental center.*

Persons with developmental disabilities may be released from developmental centers for provisional placement, with parental consent in the case of a minor or with the consent of an adult person with developmental disabilities or with the consent of the guardian or conservator of the person with developmental disabilities, not to exceed twelve months, and shall be referred to a regional center for services pursuant to this division. Any person placed pursuant to this section shall have an automatic right of return to the developmental center during the period of provisional placement.

**4512: Definitions of Key Developmental Disabilities Terms.**

*This law defines terms, including "Developmental disability" "Services and supports" "Planning team" and others.*

As used in this part:

(a) "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

(b) "Services and supports for persons with developmental disabilities" means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of his or her family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies; advocacy assistance, including self-advocacy training, facilitation and peer advocates; assessment; assistance in locating a home; child care; behavior training and behavior modification programs; camping; community integration services; community support; daily living skills training; emergency and crisis intervention; facilitating circles of support; habilitation; homemaker services; infant stimulation programs; paid roommates; paid neighbors; respite; short-term out-of-home care; social skills training; specialized medical and dental care; supported living arrangements; technical and financial assistance; travel training; training for parents of children with developmental disabilities; training for parents with developmental disabilities; vouchers; and transportation services necessary to ensure delivery of services to persons with developmental disabilities. Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

(c) Notwithstanding subdivision (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended "developmental disability" and "services for persons with developmental disabilities" means such terms as defined in the federal act to the extent required by federal law.

(d) "Consumer" means a person who has a disability that meets the definition of developmental disability set forth in subdivision (a).

(e) "Natural supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships; friendships reflecting the diversity of the neighborhood and the community; associations with fellow students or employees in regular classrooms and workplaces; and associations developed through participation in clubs, organizations, and other civic activities.

(f) "Circle of support" means a committed group of community members, which may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. Such a circle of support generally includes a plurality of members who neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) "Facilitation" means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, which will enable



a consumer to understand and participate to the maximum extent possible in the decisions and choices which effect his or her life.

(h) "Family support services" means services and supports that are provided to a child with developmental disabilities or his or her family and that contribute to the ability of the family to reside together.

(I) "Voucher" means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization which enables the consumer or family member to choose his or her own service provider.

(j) "Planning team" means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer, or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to Section 4590 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, and any individual, including a service provider, invited by the consumer, the parents or legally appointed guardian of a minor consumer, or the legally appointed conservator of an adult consumer, or the authorized representative, including those appointed pursuant to Section 4590 and subdivision (e) of Section 4705.

(k) "Stakeholder organizations" means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

### **WIC 4652: Finding Suitable Community Care for Individuals with Developmental Disabilities.**

*A regional center shall investigate every appropriate and economically feasible alternative for care of a developmentally disabled person available within the region. If suitable care cannot be found within the region, services may be obtained outside of the region. [Entire text of law.]*

TEXT OF LAW SAME AS ABOVE.

### **WIC 4653: State Residential Facility Admission Only by Court Order or Through Regional Center Referral.**

*There are only two ways for an individual with developmental disabilities to be admitted to a State Residential Facility. Either a court judicially commits the individual, or the regional center refers the individual for state hospital placement. When leaving a State Residential Facility, the individual must be referred to an appropriate regional center.*

Except for those developmentally disabled persons judicially committed to state hospitals, no developmentally disabled person shall be admitted to a state hospital except upon the referral of a regional center. Upon discharge from a state hospital, a developmentally disabled person shall be referred to an appropriate regional center.

### **WIC 4800: Habeas Corpus Request for Release from State Residential Facility.**

*An adult individual committed to a State Residential Facility may file for a hearing by writ of habeas corpus for release. The individual or someone on behalf of the individual can make this desire known to the facility in which they are residing, or to the regional center. This law specifies the form that shall be used by regional center or State Residential Facility staff for swiftly notifying the court that a request for release has been made.*

(a) Every adult who is or has been admitted or committed to a state hospital, developmental center, community care facility, as defined in Section 1502 of the Health and Safety Code, health facility, as defined in Section 1250 of the Health and Safety Code, or any other appropriate placement permitted by law, as a developmentally disabled patient shall have a right to a hearing by writ of habeas corpus for his or her release from the hospital, developmental center, community care facility, or health facility after he or she or any person acting on his or her behalf makes a request for release to any member of the staff of the state hospital, developmental center, community care facility, or health facility or to any employee of a regional center.

(b) The member of the staff or regional center employee to whom a request for release is made shall promptly provide the person making the request for his or her signature or mark a copy of the form set forth below. The member of the staff, or regional center employee, as the case may be, shall fill in his or her own name and the date, and, if the person signs by mark, shall fill in the person's name, and shall then deliver the completed copy to the medical director of the state hospital or developmental center, the administrator or director of the community care facility, or the administrator or director of the health facility, as the case may be, or his or her designee, notifying him or her of the request. As soon as possible, the person notified shall inform the superior court for the appropriate county, as indicated in Section 4801, of the request for release and shall transmit a copy of the request for release to the person's parent or conservator together with a statement that notice of judicial proceedings taken pursuant to that request will be forwarded by the court. The copy of the request for release and the notice shall be sent by the person notified by registered or certified mail with proper postage prepaid, addressed to the addressee's last known address, and with a return receipt requested. The person notified shall also transmit a copy of the request for release and the name and address of the person's parent or conservator to the court.

(c) Any person who intentionally violates this section is guilty of a misdemeanor.

(d) The form for a request for release shall be substantially as follows:

(Name of the state hospital, developmental center, community care facility, or health facility or regional center) \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

I, \_\_\_\_\_ (member of the staff of the state hospital, developmental center, community care facility, or health facility or employee of the regional center), have today received a request for the release from \_\_\_\_\_ (name of state hospital, developmental center, or community care facility) State Hospital, developmental center, community care facility, or health facility of \_\_\_\_\_ (name of patient) from the undersigned patient on his or her own behalf or from the undersigned person on behalf of the patient.

\_\_\_\_\_  
Signature or mark of patient making request for release

\_\_\_\_\_  
Signature or mark of person making request on behalf of patient

### **WIC 4801: Release from Developmental Center through Habeas Corpus Petition.**

*An adult individual judicially committed to a State Residential Facility, including under PC 1370.1 or PC 6500, may petition for a writ of habeas corpus, seeking release from the commitment. If the court finds the individual is able to safely care for him/herself in the community, release will occur within 72 hours. Release to the community may also occur if the regional center or a responsible person or agency can assume responsibility for the individual.*

(a) Judicial review shall be in the superior court for the county in which the state hospital, developmental center, community care facility, or health facility is located, except that, if the adult has been found incompetent to stand trial and has been committed pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, judicial review shall be in the superior court of the county that determined the question of the mental competence of the defendant. The adult requesting to be released shall be informed of his or her right to counsel by a member of the staff of the state hospital, developmental center, community care facility, or health facility and by the court; and if he or she does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him or her in the

preparation of a petition for the writ of habeas corpus and to represent him or her in the proceedings. The person shall pay the costs of those legal services if he or she is able.

(b) At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Notice shall also be provided to the director of the appropriate developmental center if the person seeking release or for whom release is sought resides in a developmental center. The notice shall be sent by registered or certified mail with proper postage prepaid, addressed to the addressee's last known address, and with a return receipt requested.

(c) The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent or conservator and to the director of the appropriate regional center and developmental center are deposited in the United States mail pursuant to this section.

(1) Except as provided in paragraph (2), if the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled, or (B) that he or she is developmentally disabled and that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, he or she shall be released within 72 hours. If the court finds that he or she is developmentally disabled and that he or she is unable to provide safely for his or her basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to the responsible person or regional center or other public or private agency, as the case may be, subject to any conditions that the court deems proper for the welfare of the developmentally disabled adult and that are consistent with the purposes of this division.

(2) If the person is charged with a violent felony and has been committed to his or her current placement pursuant to Section 1370.1 of the Penal Code or Section 6500, and the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled or mentally retarded, or (B) that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, the court shall, before releasing the person, determine that the release will not pose a danger to the health or safety of others due to the person's known behavior. If the court finds there is no danger pursuant to the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code, the person shall be released within 72 hours. If the person's release poses a danger to the health or safety of others, the court may grant or deny the request, taking into account the danger to the health or safety of others posed by the person. If the court finds that release of the person can be made subject to conditions that the court deems proper for the preservation of public health and safety and the welfare of the person, the person shall be released subject to those conditions.

(d) If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

(e) This section shall become operative January 1, 1988.

**WIC 4802: Right of Conservator to Remove Patient Unimpaired.**

*This chapter shall not be construed to impair the right of a conservator of an adult developmentally disabled patient to remove the patient from the state hospital at any time pursuant to Section 4825.*

TEXT OF LAW SAME AS ABOVE.

**WIC 4803: No Objection Certification as Condition of Facility Placement.**

*Before the regional center can place an individual in a community care facility or health facility, the regional center must certify in writing that the individual, the parent (if a minor) or conservator of the individual adult, and other appropriate person or agency have not objected to the placement. A facility must not admit the individual without a copy of the regional center's certification. If objections exist, they are to be resolved through a fair hearing procedure.*

If a regional center recommends that a person be admitted to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to a community care facility or health facility, nor the parent of a minor or conservator of an adult, if appropriate, nor the person or agency appointed pursuant to Section 4590 or subdivision (e) of Section 4705 has made an objection to the admission to the person making the recommendation. The regional center shall transmit the certificate, or a copy thereof, to the community care facility or health facility.

A community care facility or health facility shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of the certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility or health facility admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to Section 4700.

**WIC 4804: Reimbursement of Court Costs by Individual's County of Residence.**

*If a superior court proceeding under this chapter occurs in a county other than the county of permanent residence of the individual, the county may recover costs from the individual's county of permanent residence.*

Whenever a proceeding is held in a superior court under the provisions of this chapter, involving a person who has been placed in a state hospital located outside the county of residence of the person, the provisions of this section shall apply. The county clerk of the county in which the proceeding is held may make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement may be certified by a judge of the superior court of such county. The statement may then be sent to the county of residence of the person, which shall reimburse the county providing such services. If it is not possible to determine the actual county of residence of the person, the statement may be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

**WIC 4805: Resolving Objections to transfers between State Residential Facilities.**

*Objections to proposed transfers between state hospitals shall be resolved pursuant to Chapter 7 (commencing with Section 4700).*

TEXT OF LAW SAME AS ABOVE.

**WIC 4825: Voluntary Admissions/Departures from State Residential Facilities.**

*A parent of a minor, or the conservator of an adult, with developmental disabilities may apply for the individual to be admitted to a State Residential Facility. Whenever the parent or conservator gives notice to the State Residential Facility that they want the individual released from the State Residential Facility, the voluntarily admitted individual may leave.*

The provisions of this division shall not be construed to terminate any appointment of the State Department of Mental Health as guardian of the estate of a developmentally disabled person prior to July 1, 1971.

It is the intent of this section that the Director of Developmental Services be appointed as guardian or conservator of a developmentally disabled person as provided pursuant to the provisions of Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

Notwithstanding the provisions of Section 6000, the admission of an adult developmentally disabled person to a state hospital or private institution shall be upon the application of the person's parent or conservator in accordance with the provisions of Sections 4653 and 4803. Any person so admitted to a state hospital may leave the state hospital at any time, if such parent or conservator gives notice of his or her desire for the departure of the developmentally disabled person to any member of the hospital staff and completes normal hospitalization departure procedures.

Notwithstanding the provisions of Section 4655, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

**WIC 5353: Powers of a Temporary Conservator.**

*This statute defines the powers of a temporary conservator of an individual, including the power to require the conserved individual to be detained in a facility providing intensive treatment, including a State Residential Facility, pending the determination of a more permanent conservatorship arrangement.*

A temporary conservator under this chapter shall determine what arrangements are necessary to provide the person with food, shelter, and care pending the determination of conservatorship. He shall give preference to arrangements which allow the person to return to his home, family or friends. If necessary, the temporary conservator may require the person to be detained in a facility providing intensive treatment or in a facility specified in Section 5358 pending the determination of conservatorship. Any person so detained shall have the same right to judicial review set forth in Article 5 (commencing with Section 5275) of Chapter 2 of this part.

The powers of the temporary conservator shall be those granted in the decree, but in no event may they be broader than the powers which may be granted a conservator.

The court shall order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence. The temporary conservator shall not be permitted to sell or relinquish on the conservatee's behalf any estate or interest in any real or personal property, including any lease or estate in real or personal property used as or within the conservatee's place of residence, without specific approval of the court, which may be granted only upon a finding based on a preponderance of the evidence that such action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that such real property is vacant, that it cannot reasonably be rented, and that it is impossible or impractical to obtain fire or liability insurance on such property.

**WIC 5358: Least Restrictive Placement Required in Court-Ordered Placement.**

*When court-ordered to do so, a conservator of a "gravely disabled" individual with developmental disabilities must place the individual in the "least restrictive alternative placement" the court order identifies. Such a placement may include a State Residential Facility. The conservator has the further power to require the individual to receive treatment in the facility related to the grave disability, in accordance with the court's order. In the case of an individual who is not "gravely disabled" the conservator may transfer the individual to a placement that is less restrictive, or more restrictive, than the court orders. A placement more restrictive than the court ordered (such as a State Residential Facility) can be used only when the individual's condition has so changed as to pose "an immediate and substantial danger to himself or herself or others." When such a more restrictive placement change is made, the conservator must notify the court and certain other interested parties.*

(a) (1) When ordered by the court after the hearing required by this section, a conservator appointed pursuant to this chapter shall place his or her conservatee as follows:

(A) For a conservatee who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, in the least restrictive alternative placement, as designated by the court.

(B) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, in a placement that achieves the purposes of treatment of the conservatee and protection of the public.

(2) The placement may include a medical, psychiatric, nursing, or other state-licensed facility, or a state hospital, county hospital, hospital operated by the Regents of the University of California, a United States government hospital, or other nonmedical facility approved by the State Department of Mental Health or an agency accredited by the State Department of Mental Health, or in addition to any of the foregoing, in cases of chronic alcoholism, to a county alcoholic treatment center.

(b) A conservator shall also have the right, if specified in the court order, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his or her conservatee to receive routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order obtained pursuant to Section 5358.2 specifically authorizing that surgery.

(c) (1) For a conservatee who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, if the conservatee is not to be placed in his or her own home or the home of a relative, first priority shall be to placement in a suitable facility as close as possible to his or her home or the home of a relative. For the purposes of this section, suitable facility means the least restrictive residential placement available and necessary to achieve the purpose of treatment. At the time that the court considers the report of the officer providing conservatorship investigation specified in Section 5356, the court shall consider available placement alternatives. After considering all the evidence the court shall determine the least restrictive and most appropriate alternative placement for the conservatee. The court shall also determine those persons to be notified of a change of placement. The fact that a person for whom conservatorship is recommended is not an inpatient shall not be construed by the court as an indication that the person does not meet the criteria of grave disability.

(2) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, first priority shall be placement in a facility that achieves the purposes of treatment of the conservatee and protection of the public. The court shall determine the most appropriate placement for the conservatee. The court shall also determine those persons to be notified of a change of placement, and additionally require the conservator to notify the district attorney or attorney representing the originating county prior to any change of placement.

(3) For any conservatee, if requested, the local mental health director shall assist the conservator or the court in selecting a placement facility for the conservatee. When a conservatee who is receiving services from the local mental health program is placed, the conservator shall inform the

local mental health director of the facility's location and any movement of the conservatee to another facility.

(d) (1) Except for a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the conservator may transfer his or her conservatee to a less restrictive alternative placement without a further hearing and court approval. In any case in which a conservator has reasonable cause to believe that his or her conservatee is in need of immediate more restrictive placement because the condition of the conservatee has so changed that the conservatee poses an immediate and substantial danger to himself or herself or others, the conservator shall have the right to place his or her conservatee in a more restrictive facility or hospital. Notwithstanding Section 5328, if the change of placement is to a placement more restrictive than the court-determined placement, the conservator shall provide written notice of the change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate and any other persons designated by the court pursuant to subdivision (c).

(2) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the conservator may not transfer his or her conservatee without providing written notice of the proposed change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate, the district attorney of the county that made the commitment, and any other persons designated by the court to receive notice. If any person designated to receive notice objects to the proposed transfer within 10 days after receiving notice, the matter shall be set for a further hearing and court approval. The notification and hearing is not required for the transfer of persons between state hospitals.

(3) At a hearing where the conservator is seeking placement to a less restrictive alternative placement pursuant to paragraph (2), the placement shall not be approved where it is determined by a preponderance of the evidence that the placement poses a threat to the safety of the public, the conservatee, or any other individual.

(4) A hearing as to placement to a less restrictive alternative placement, whether requested pursuant to paragraph (2) or pursuant to Section 5358.3, shall be granted no more frequently than is provided for in Section 5358.3.

**WIC 6000(a): Voluntary State Residential Facility Entrance for Adult and Minor.**

*An adult individual with developmental disabilities who is not conserved, and who has the competence to do so, may voluntarily apply for placement in a State Residential Facility. A conservator of an adult individual with developmental disabilities may place the individual in a State Residential Facility, in accordance with Section 5358.*

Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or developmentally disabled may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it or, if he is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5358 to place his conservatee in a state hospital, by his conservator.

**WIC 6000(b): Voluntary State Residential Facility Entrance and Exit for Adults and Minors.**

*A minor individual with developmental disabilities may become a voluntary patient of a State Residential Facility upon application by the parents or parent, guardian, or conservator. A voluntary adult patient may leave the hospital by giving notice of his desire to leave. A conserved individual may leave when notice is given by the conservator, and a minor may leave when notice is given by the parent or other person legally empowered to make such decisions. Once a minor individual reaches the age of majority, such a voluntary patient, or the conservator of the individual may apply for admission to the hospital as a voluntary adult.*

Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or developmentally disabled may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, conservator, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Mental Health or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place the conservatee in a state hospital the application for the minor shall be made by his conservator.

Any such person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of Mental Health or the State Department of Developmental Services the record of such voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, conservator, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

The State Department of Mental Health or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.



**WIC 6000.5: State Residential Facility May Receive Voluntary Admissions.**

*A State Residential Facility for individuals with developmental disabilities may receive as patients individuals who have been referred for placement in accordance with Sections 4652, 4653, and 4803.*

Pursuant to Section 6000, the medical director of a state hospital for the developmentally disabled may receive in such hospital, as a boarder and patient, any developmentally disabled person as defined in Section 4512 who has been referred in accordance with Sections 4652, 4653, and 4803.

**WIC 6500: Commitment of Individual with Mental Retardation to Developmental Center When a Danger to Self or Others.**

*An individual with mental retardation can be admitted to a developmental center only if the individual is a danger to self or others, as comprehensively defined in this law. An order of commitment for such an individual automatically expires one year after it is issued. Subsequent petitions may be filed for additional one-year commitment periods. The commitment order is made by the court upon a finding of dangerousness to self or others, subsequent to a presentation of the allegation to the court by the county district attorney or the county counsel.*

On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless he or she is a danger to himself or herself, or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 288a of the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

If the mentally retarded person is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility is not required in order to find that the person is a danger to self or others.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article, the alleged mentally retarded person shall be informed of his or her right to counsel by the court, and if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other

attorney to represent him or her. The person shall pay the cost for the legal services if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person is mentally retarded and a danger to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel.

**WIC 6501: Porterville DC Designated Priority Secure Treatment Facility.**

*Porterville Developmental Center is given priority as the state's secure treatment facility to which an individual ordered pursuant to PC 667.5 or 1370.1, or WIC 6500, will be committed.*

If a person is charged with a violent felony, as described in Section 667.5 of the Penal Code, and the individual has been committed to the State Department of Developmental Services pursuant to Section 1370.1 of the Penal Code or Section 6500 for placement in a secure treatment facility, as described in subdivision (e) of Section 1370.1 of the Penal Code, the department shall give priority to placing the individual at Porterville Developmental Center prior to placing the individual at any other developmental center that has been designated as a secure treatment facility.

**WIC 6502: Petition for Section 6500 Commitment of Individual with Mental Retardation Who is Incompetent to Stand Trial.**

*A petition for a WIC 6500 commitment of an individual with mental retardation, who has been found incompetent to stand trial, may be filed in the county's Superior Court where the finding of incompetency was made. This law enumerates certain people and agencies who may request the filing of the petition, including parents, conservators, probation officers, the Youth Authority, and the regional center.*

A petition for the commitment of a mentally retarded person to the State Department of Developmental Services who has been found incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with one or more of the offenses identified or described in Section 6500, may be filed in the superior court of the county that determined the question of mental competence of the defendant. All other petitions may be filed in the county in which that person is physically present. The following persons may request the person authorized to present allegations pursuant to Section 6500 to file a petition for commitment:

- (a) The parent, guardian, conservator, or other person charged with the support of the mentally retarded person.
- (b) The probation officer.
- (c) The Youth Authority.
- (d) Any person designated for that purpose by the judge of the court.
- (e) The Director of Corrections.
- (f) The regional center director or his or her designee.

The request shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by affidavit.

**WIC 6503: Time and Place of Hearing for a Section 6500 Commitment Petition.**

*This law contains requirements concerning the processing of the commitment petition, including the time limits and location of the hearing.*

The court shall fix a time and place for the hearing of the petition. The time for the hearing shall be set no more than 60 days after the filing of the petition. The court may grant a continuance only upon a showing of good cause. The hearing may, in the discretion of the court, be held at any place which the court deems proper, and which will give opportunity for the production and examination of witnesses.

**WIC 6504: Due Notice Requirements of Hearing for a Section 6500 Commitment Petition.**

*Before a hearing on a Section 6500 commitment takes place, due notice must be given to the individual who is subject to the commitment, and to persons responsible for the individual, such as the parent, guardian, or conservator.*

In all cases the court shall require due notice of the hearing of the petition to be given to the alleged mentally retarded person. Whenever a petition is filed, the court shall require such notice of the hearing of the petition as it deems proper to be given to any parent, guardian, conservator, or other person charged with the support of the person mentioned in the petition.

**WIC 6504.5: Regional Center Examination and Report in Response to WIC 6500 Commitment Petition.**

*When a Section 6500 commitment petition is filed, the court will direct the regional center director to examine the individual to be committed, and to submit a report of the examination within 15 days. The report will include a placement recommendation of a facility. If a developmental center is recommended, the director of that facility may submit a report to the court giving its own assessment of the proposed placement, including the question of protection of the public safety.*

Wherever a petition is filed pursuant to this article, the court shall appoint the director of a regional center for the developmentally disabled established under Division 4.5 of this code, or the designee of the director, to examine the alleged mentally retarded person.

Within 15 judicial days after his or her appointment, the regional center director or designee shall submit to the court in writing a report containing his or her evaluation of the alleged mentally retarded person. The report shall contain a recommendation of a facility or facilities in which the alleged developmentally disabled person may be placed.

The report shall include a description of the least restrictive residential placement necessary to achieve the purposes of treatment. In determining the least restrictive residential placement, consideration shall be given to public safety. If placement into or out of a developmental center is recommended, the regional center director or designee simultaneously shall submit the report to the executive director of the developmental center or his or her designee. The executive director of the developmental center or his or her designee may, within 15 days of receiving the regional center report, submit to the court a written report evaluating the ability of the developmental center to achieve the purposes of treatment for this person and whether the developmental center placement can adequately provide the security measures or systems required to protect the public health and safety from the potential dangers posed by the person's known behaviors.

The reports prepared by the regional center director and developmental center director, if applicable, shall also address suitable interim placements for the person as provided for in Section 6506.

**WIC 6505: Compelling Court Appearance of Person with Mental Retardation.**

*The court may, when necessary or advisable, compel the appearance in court of a person with mental retardation who has been found unfit to stand trial.*

Whenever the court considers it necessary or advisable, it may cause an order to issue for the apprehension and delivery to the court of the alleged mentally retarded person, and may have the order executed by any peace officer.

**WIC 6506: Temporary Commitment to Facility Pending 6500 Hearing.**

*Pending a Section 6500 hearing to determine whether an individual with mental retardation poses a danger to self or others, the court, upon receiving advice from the regional center and the developmental center, may order the individual to be placed in a State Residential Facility or other facility. This temporary placement must be to the least restrictive setting consistent with protection of the public safety. In addition to the temporary commitment, the court may order that the individual receive care and treatment, including medical and dental treatment. This temporary placement order will be superceded by the outcome of the Section 6500 hearing.*

Pending the hearing, the court may order that the alleged dangerous mentally retarded person may be left in the charge of his or her parent, guardian, conservator, or other suitable person, or placed in a state hospital for the developmentally disabled, in the county psychiatric hospital, or in any other suitable placement as determined by the court. Prior to the issuance of an order under this section, the regional center and developmental center, if applicable, shall recommend to the court a suitable person or facility to care for the alleged mentally retarded person. The determination of a suitable person or facility shall be the least restrictive option that provides for the person's treatment needs and that has existing security systems or measures in place to adequately protect the public safety from any known dangers posed by the person. In determining whether the public safety will be adequately protected, the court shall make the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code.

Pending the hearing, the court may order that the person receive necessary habilitation, care, and treatment, including medical and dental treatment.

Orders made pursuant to this section shall expire at the time set for the hearing pursuant to Section 6503. If the court upon a showing of good cause grants a continuance of the hearing on the matter, it shall order that the person be detained pursuant to this section until the hearing on the petition is held.

**WIC 6507: Court Testimony from Expert Witnesses in WIC 6500 Hearing.**

*In connection with a WIC 6500 hearing, the court can compel the expert testimony of physicians, psychologists and others regarding their examination of the individual whose commitment is at issue.*

The court shall inquire into the condition or status of the alleged mentally retarded person. For this purpose it may by subpoena require the attendance before it of a physician who has made a special study of mental retardation and is qualified as a medical examiner, and of a clinical psychologist, or of two such physicians, or of two such psychologists, to examine the person and testify concerning his mentality. The court may also by subpoena require the attendance of such other persons as it deems advisable, to give evidence.

**WIC 6508: Compensation for Physician and Psychologist.**

*This law establishes dollar limits and other rules applying to the compensation and reimbursement of expert physician and psychologist, and other witnesses, in the course of a WIC 6500 hearing.*

Each psychologist and physician shall receive for each attendance mentioned in Section 6507 the sum of five dollars (\$5) for each person examined, together with his necessary actual expenses occasioned thereby, and other witnesses shall receive for such attendance such fees and expenses as the court in its discretion allows, if any, not exceeding the fees and expenses allowed by law in other cases in the superior court.

Any fees or traveling expenses payable to a psychologist, physician, or witness as provided in this section and all expenses connected with the execution of any process under the provisions of this article, which are not paid by the parent, guardian, conservator, or person charged with the support of the supposed mentally retarded person, shall be paid by the county treasurer of the county in which the person resides, upon the presentation to the treasurer of a certificate of the judge that the claimant is entitled thereto.

**WIC 6509: Commitment of Individual with Mental Retardation to the Least Restrictive Placement.**

*If in the course of a WIC Section 6500 hearing, the court finds the individual to have mental retardation, and to be a danger to self or to others, the court, after hearing all the evidence, may commit the individual to any of a range of residential placements, including a developmental center, which is the least restrictive placement consistent with the purposes of treatment. Subsequent to the placement being made, DDS must notify the court and other parties in advance of changing the residential option of the individual. The court may hold a hearing to approve or disapprove the proposed change. If no action is taken by the court, the proposed change will be deemed to have been approved.*

(a) If the court finds that the person is mentally retarded, and that he or she is a danger to himself, herself, or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any state hospital, developmental center, any licensed community care facility, as defined in Section 1504, or any health facility, as defined in Section 1250, or any other appropriate placement permitted by law. The court shall hold a hearing as to the available placement alternatives and consider the reports of the regional center director or designee and the developmental center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence, the court shall order that the person be committed to that placement that the court finds to be the most appropriate alternative. If the court finds that release of the person can be made subject to conditions that the court deems proper and adequate for the protection and safety of others and the welfare of the person, the person shall be released subject to those conditions.

The court, however, may commit a mentally retarded person who is not a resident of this state under Section 4460 for the purpose of transportation of the person to the state of his or her legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

(b) If the person has at any time been found mentally incompetent pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code arising out of a complaint charging a felony offense specified in Section 290 of the Penal Code, the court shall order the State Department of Developmental Services to give notice of that finding to the designated

placement facility and the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility.

(c) If the Department of Developmental Services decides that a change in placement is necessary, it shall notify in writing the court of commitment, the district attorney, and the attorney of record for the person and the regional center of its decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

**WIC 6510: Punishment for Maliciously Intended WIC Section 6500 Petition.**

*The court may order the initiator of a maliciously motivated WIC Section 6500 petition to pay all costs incurred as a consequence of the filing of the malicious petition.*

In case of the dismissal of the petition, the court may, if it considers the petition to have been filed with malicious intent, order the petitioner to pay the expenses in connection therewith, and may enforce such payment by such further orders as it deems necessary.

**WIC 6511: Contrived WIC Section 6500 Petition a Misdemeanor Offense.**

*Any person who knowingly contrives to have any person adjudged mentally retarded under the provisions of this article, unlawfully or improperly, is guilty of a misdemeanor.*

TEXT OF LAW SAME AS ABOVE

**WIC 6513: Payment by DDS of Costs for Processing and Implementing a WIC Section 6500 Petition.**

*DDS is required to pay all the costs associated with a Section 6500 petition, commitment, and release if the court proceedings occur in the same county in which DDS maintains a secure treatment facility, and if the individual is already a resident of the State Residential Facility or developmental center at the time of the Section 6500 proceedings.*

(a) The State Department of Developmental Services shall pay for the costs, as defined in this section, of judicial proceedings, including commitment, placement, or release, under this article under both of the following conditions:

(1) The judicial proceedings are in a county within which a state hospital or developmental center maintains a treatment program for mentally retarded persons who are a danger to themselves or others.

(2) The judicial proceedings relate to a mentally retarded person who is at the time residing in the state hospital or developmental center located in the county of the proceedings.

(b) The appropriate financial officer or other designated official in a county described in subdivision (a) may prepare a statement of all costs incurred by the county in the investigation, preparation for, and conduct of the proceeding, including any costs of the district attorney or county counsel and any public defender or court-appointed counsel representing the person, and including any costs incurred by the county for the guarding or keeping of the person while away from the state hospital and for transportation of the person to and from the hospital. The statement shall be certified to by a judge of the superior court and shall be sent to the State Department of Developmental Services. In lieu of sending statements after each proceeding, the statements may be held and submitted quarterly for the preceding three-month period.

**WIC 7518: Authority to Make Medical, Surgical, and Dental Treatment Choices for State Residential Facility Patients.**

*This law deals with authority for making medical, surgical, and dental treatment decisions for individuals with developmental disabilities who reside in a State Residential Facility serving individuals with developmental disabilities. If the individual is an adult who is competent to make such decisions, no one else can make these decisions. If the individual is a minor, the developmental center will request the parent, guardian, or conservator of the minor to consent to treatment. If there is no reply to this request in a reasonable time, the State Residential Facility's medical director may give consent and proceed with treatment. If there is no one to speak for the minor, the developmental center may give consent and proceed with treatment. In such a case, the developmental center will ask the patient's regional center to start the process leading to appointment of a guardian or conservator empowered to make medical decisions for the patient.*

In accordance with this section, the medical director of a state hospital with programs for developmentally disabled patients, as defined in Section 4512, may give consent to medical, dental, and surgical treatment of a minor developmentally disabled patient of the hospital and provide for such treatment to be given to the patient.

If the patient's parent, guardian, or conservator legally authorized to consent to such treatment, does not respond within a reasonable time to the request of the medical director for the granting or denying of consent for such treatment, the medical director may consent, on behalf of the patient, to such treatment and provide for such treatment to be given to the patient.

If the patient has no parent, guardian, or conservator legally authorized to consent to medical, dental, or surgical treatment on behalf of the patient, the medical director may consent to such treatment on behalf of the patient and provide for such treatment to be given to the patient. The medical director may immediately thereupon also request the appropriate regional center for the developmentally disabled to initiate or cause to be initiated proceedings for the appointment of a guardian or conservator legally authorized to consent to medical, dental, or surgical treatment.

If the patient is an adult and has no conservator, consent to treatment may be given by someone other than the patient on the patient's behalf only if the patient is mentally incapable of giving his own consent.

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## **4.JUDICIAL FINDINGS (CASE LAW) SUMMARIES**

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## **Judicial Findings (Case Law)**

### *In re Hop*

In re Hop (1981) 29 Cal.3d 82, 623 P.2d 282; 171 Cal. Rptr. 721

Cases Citing This Case

[Crim. No. 21263. Supreme Court of California. Feb 19, 1981.]

In re IRENE HOP on Habeas Corpus

### SUMMARY

The public defender filed a petition for habeas corpus on behalf of a developmentally disabled adult woman who was placed in a state hospital by a parent as a nonprotesting developmentally disabled person pursuant to Welf. & Inst. Code, § 4825. The petition alleged the woman lacked the ability to object to her transfer and that through successive but unsuccessful petitions for habeas corpus she was unable to obtain any judicial review of the propriety of her initial transfer and confinement at the hospital.

The Supreme Court held that a developmentally disabled adult placed in a state hospital at the request of one not so legally authorized and who neither requested nor knowingly agreed to the placement may not be deemed a "voluntary" admittee, who is deemed to be free either to leave or to object to the confinement. Accordingly, the court held the present statutory scheme (Welf. & Inst. Code, § 4800 et seq.), which permits indefinite placement of such nonprotesting developmentally disabled adults in a state hospital without any hearing, constitutes a denial of due process of law. The court further held that the placement of petitioner in the state hospital at the request of her mother in the absence of either a judicial determination regarding her disability or a knowing and intelligent request for admission was unconstitutional, and she was entitled to a judicial hearing on the question of whether, because of developmental disability, she was gravely disabled or a danger to herself or others, and whether placement in a state hospital was warranted. The court also held the public defender had standing under Pen. Code, § 1474, and Welf. & Inst. Code, § 4800, to bring the habeas corpus petition. However, the court stated its holding did not require the immediate release either of petitioner or of those presently held in state hospitals under the authority of Welf. & Inst. Code, § 4825. (Opinion by Richardson, J., with Bird, C. J., Tobriner, Mosk and Newman, JJ., concurring.)

**Judicial Findings:**

*In re Violet C.*

In re Violet C. (1989) 213 Cal.App.3d 86, 261 Cal.Rptr. 470

Cases Citing This Case

[No. B036972. Court of Appeals of California, Second Appellate District, Division Six. Aug 15, 1989.]

In re VIOLET C. on Habeas Corpus

SUMMARY

A developmentally disabled adult was judicially committed to a state hospital on a hold order pending trial on a petition brought by regional center. The judicial commitment proceeding was not statutorily authorized, but was commenced under the purported authority of a decision of the California Supreme Court which had held that a developmentally disabled person may not be admitted to a state hospital without a judicial hearing even when no objection is made by the admittee. The developmentally disabled adult objected to her commitment to the state hospital by way of the nonstatutory judicial procedure, and requested her release by writ of habeas corpus pursuant to Welf. & Inst. Code, § 4800. The superior court of the county in which the state hospital was located granted the writ on the ground she was improperly committed. (Superior Court of Ventura County, No. PS 16372, Roland Short, Temporary Judge.)

The Court of Appeal affirmed. It held that there is no nonstatutory procedure permitting judicial commitment of a nonviolent developmentally disabled adult to a state hospital where the petition is brought by someone other than a conservator or other legal representative. Accordingly, it held, the hearing under which petitioner was committed was improper, and she was entitled to be released.

(Opinion by Stone (S. J.), P. J., with Gilbert and Abbe, JJ., concurring.)

**Judicial Findings:**

*NBRC v Sherry S.*

North Bay Regional Center v. Sherry S. (1989) 207 Cal.App.3d 449, 256 Cal. Rptr. 129  
Cases Citing This Case

[No. A039381. Court of Appeals of California, First Appellate District, Division Four.  
Jan 25, 1989.]

NORTH BAY REGIONAL CENTER, Plaintiff and Respondent, v.  
SHERRY S., Defendant and Appellant

**SUMMARY**

A regional center filed a petition for an order admitting a severely developmentally disabled but nondangerous adult not represented by parent, guardian, or conservator to a state hospital. The trial court granted the petition.

(Superior Court of Napa County, No. M-87182, Herbert W. Walker, Judge.)

The Court of Appeal remanded the matter and directed that the statutory procedure outlined in its opinion must be followed or a record must be developed demonstrating that that procedure is inadequate. The court held that a developmentally disabled adult may be admitted to a state hospital on the application of a parent or conservator, combined with a referral from a regional center and a certificate of nonobjection. If no parent or guardian is available for this purpose, the Director of Developmental Services may be appointed conservator in a conservatorship proceeding under the Probate Code. The director's duties as conservator may be delegated to the regional center. Once these requirements have been satisfied, a regional center may, as the director's delegate, petition the court to determine the appropriateness of a developmental center placement. (Opinion by Channell, J., with Anderson, P. J., and Poche, J., concurring.)

## **Judicial Findings:**

*Richard S. v DDS*

Richard S., et al., v. Department of Developmental Services, et al., v. Barbara Bell, et al.  
United States District Court, Central District of California, Southern Division, Case No.  
SA CV 97-219-GLT-(ANX)

### **SUMMARY**

This lawsuit was filed on behalf of developmental center residents. The complaint alleged that the rights of the residents were being violated in the placement process. The lawsuit ended in a settlement agreement among the parties, on April 24, 2000. A permanent injunction issued in connection with the agreement ended a DDS policy of not placing adult developmental center residents into the community when family members and/or conservators objected to the placement and when placement was otherwise appropriate. Pursuant to the permanent injunction, a family member or conservator may continue to participate in the decision-making process, but may not veto community placement.

The major terms of the settlement agreement were:

1. IPP planning meetings for developmental center residents shall, to the maximum extent possible, be scheduled at a time and date that is mutually acceptable to the consumer; his/her family, conservator, or other authorized representative; regional center service coordinator; and developmental center staff on the resident's IDT, including the resident's attending developmental center physician and other service providers required as designated by program management.
2. The consumer's developmental center treating physician shall not be excluded from the consumer's IPP planning meeting(s).
3. Any disagreement with a decision to transfer a consumer from a developmental center to a community placement shall be documented on the IPP and highlighted. If such an objection is made and highlighted, the IDT's recommendation for community placement shall also be highlighted.
4. Once an IDT has recommended community placement, a placement has been located, and a proposed transfer date has been set, DDS shall send written notice to the California superior court having jurisdiction over the consumer, if any, of the intent to transfer the resident. Such notice shall be sent by overnight mail, at least fifteen (15) days before the proposed date of transfer. If an objection to placement has been made by an IDT member, that objection shall be included with the written notice to the appropriate superior court, along with the identity of the objecting team member.

DDS shall also provide a "Request for Hearing" form to the objecting team member to sign and date. The Request for Hearing must be signed and dated by the objecting team member to request that the superior court hold a hearing to review the recommended placement. In cases in which the objecting team

member signs and dates the Request for Hearing, the form, along with a copy of the complete written IPP, shall be attached to the written notification provided to the superior court. The court will decide whether to hold a hearing. If the court notifies the developmental center that a hearing will occur, no community placement shall occur for that resident until the court rules on the proposed placement. If the court takes no action on the Request for Hearing, the community placement shall occur as scheduled.

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## **APPENDIX 1: "Secure Treatment Facility" Definition Exclusions**

Excluded by the California Health and Safety Code, commencing with Section 1250:

- General acute care hospital
- Acute psychiatric hospital
- Skilled nursing facility
- Nursing facility
- Intermediate care facility
- Intermediate care facility/developmentally disabled
- Intermediate care facility/developmentally disabled, habilitative
- Intermediate care facility/developmentally disabled, nursing
- Special hospital
- Congregate living health facility
- Correctional treatment center
- Chemical dependency recovery center

The California Health and Safety Code, commencing with Section 1502:

- Community care facility
- Residential facility
- Adult day care facility
- Therapeutic day services facility
- Foster family agency
- Foster family home
- Small family home
- Social rehabilitation facility
- Community treatment facility
- Full-service adoption agency
- Non-custodial adoption agency
- Transitional shelter care facility

The California Health and Safety Code, commencing with Section 1569:

- Residential Care facilities for the elderly

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## **APPENDIX 2: Summary of Penal Code Sections 290 and 667.5 Offenses**

### **Section 290 Offenses:**

PC 207	Kidnaping.
PC 220	Assault with intent to cause mayhem, rape, sodomy, oral copulation, rape in concert with another, lascivious acts upon a child, or penetration of genitals or anus with foreign object.
PC 243.4	Sexual battery.
PC 261	Rape.
PC 262	Rape of spouse.
PC 264.1	Rape or penetration of genital or anal openings by foreign object.
PC 266	Inveiglement or enticement of unmarried female under 18 for purposes of prostitution, aiding and abetting, procuring female for illicit intercourse by false pretenses.
PC 266c	Unlawful sexual intercourse, penetration by foreign object or substance, oral copulation, or sodomy, consent procured by false or fraudulent representation with intent to create fear.
PC266j	Procurement of child under age 16 for lewd or lascivious acts.
PC 267	Abduction, person under 18 for purpose of prostitution.
PC 285	Incest.
PC 286	Sodomy.
PC 288	Lewd or lascivious acts with child under age 14.
PC 288a	Oral copulation.
PC 288.5	Continuous sexual abuse of a child.
PC 289	Penetration of genital or anal openings by foreign or unknown objects.
PC 311.2	Sending or bringing into state for sale or distribution, printing, exhibiting, distributing, exchanging or possessing within state; matter depicting sexual conduct by minor, transaction with minor.
PC 311.3	Sexual exploitation of child.
PC 311.4	Employment or use of minor to perform prohibited acts.
PC 311.10	Advertising for sale or distribution obscene matter depicting a person under the age of 18 years engaging in or simulating sexual conduct.
PC 311.11	Possession or control of matter depicting minor engaging or simulating sexual conduct.
PC 647.6	Annoying or molesting child under 18.
PC 647a	Renumbered as 647.6.
PC 647	Disorderly conduct.
PC 314	Lewd or obscene conduct, indecent exposure, obscene exhibitions.
PC 272	Causing, encouraging or contributing to delinquency of persons under 18 years, inducing disobedience to court order.
PC 288.2	Harmful matter sent with intent of seduction of minor.

(Appendix 2, continued)

**Section 667.5 Offenses:**

- Murder or voluntary manslaughter
- Mayhem.
- Rape
- Sodomy by force, etc.
- Oral copulation by force, etc.
- Lewd acts on a child under the age of 14 years
- Any felony punishable by death or imprisonment in the state prison for life
- Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice
- Any robbery perpetrated in an inhabited dwelling house, vessel, trail, coach, etc.
- Arson
- Penetration of genital or anal openings by foreign or unknown object when accomplished against the victim's will by force
- Attempted murder
- Explosion, attempt to explode or ignite destructive device or explosive with intent to murder
- Kidnaping
- Continuous sexual abuse of a child
- Carjacking

**APPENDIX 3:**  
**State Residential Facilities Admission Procedures**

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State of California  
California Health and Human Services Agency  
Department of Developmental Services

**P O L I C Y   M E M O R A N D U M**

Developmental Centers Division

Series: 200—Admission and Release Procedures

Number: 214

Action: NEW

Subject: ADMISSIONS TO STATE RESIDENTIAL FACILITIES

Date: April 17, 2002

APPROVED: \_\_\_\_\_  
[ORIGINAL SIGNED BY]  
GARY W. SCOTT  
Acting Deputy Director

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**POLICY:**

It is the policy of the California State Department of Developmental Services (Department) to review each individual's needs, when requested, to ensure that they are provided with needed services in the least restrictive conditions necessary to achieve the purposes of the treatment, services, or supports prior to initial admission to a developmental center.

To comply with the Lanterman Developmental Disabilities Services Act, the Department, through the Regional Resource Development Projects (RRDP), will assist the regional centers (RC) in conducting a search for available services and supports. This is to ensure that a state residential facility is the "least restrictive environment" which can meet the individual's needs before facilitating the RC's request for admission.

When state residential facility admission is determined to be appropriate because all less restrictive options have been exhausted, the RRDP Director will serve as the coordinator of admissions at their respective developmental centers (DC). In addition, the Lanterman Regional Project will serve the Canyon Springs Community Facility (CF) and the Delta Regional Project will serve the Sierra Vista CF. Coordination of admission to a state residential facility includes working with other RRDPs, DC/CF management, and RCs to ensure that applicable procedures, including legal requirements for admission, are followed. Admissions to the Secure Treatment Program at Porterville Developmental Center (Porterville) will be coordinated in collaboration with the Porterville Community Liaison Representative. Procedures for implementation are contained in the RRDP Procedure Manual.

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Department of Developmental Services  
**Regional Resource Development Project**

**PROCEDURE MANUAL**

**SUBJECT:**        **ADMISSIONS TO STATE RESIDENTIAL FACILITIES**

**DATE:**            April 17, 2002

**REVISION NO.:** Original

**REVIEWED AND APPROVED BY:**        \_\_\_\_\_ [ORIGINAL SIGNED BY] \_\_\_\_\_  
James E. Rogers, Assistant Deputy Director  
Developmental Centers Division

Each RRDP will work with the RCs within their catchment area. Upon request, the RRDPs will assist each other in providing assistance to the RCs or conducting assessments. Each RRDP Director will serve as the coordinator of admissions at their respective DCs. In addition, the Lanterman Regional Project will serve the Canyon Springs Community Facility (CF) and the Delta Regional Project will serve the Sierra Vista CF.

- I.    When a RC determines that a need for DC services is possible, they are to contact the RRDP in their area for assistance. The RRDPs will:
  - A.    Conduct an assessment pursuant to W&I Code Section 4418.7.
  - B.    Prepare a written assessment that includes specific recommendations:
    - 1.    Recommendations for community placement will specify needed services and supports.
    - 2.    Recommendations for DC/CF admission shall specify which services and supports offered by the DC/CF are needed for this person.
    - 3.    When the recommendation for DC placement results from the lack of appropriate community services, the assessment shall so state.
    - 4.    Send a copy of the assessment, completed pursuant to 4418.7, to the RC and other agencies as appropriate (court, DC/CFs, etc.).

- C. When necessary, a copy of the 4418.7 report shall be sent to the court of jurisdiction.
- D. Assist the RC, as needed, in obtaining emergency services and supports, or an alternate long-term community placement and participate in the IPP to evaluate the outcome of the emergency supports; or
- E. Assist the RC in obtaining DC/CF admission when the IPP team determines placement is needed.
  - 1. Fax a copy of the assessment completed pursuant to 4418.7 to the RRDP of each DC/CF to which placement may be appropriate for this person.
  - 2. Obtain a complete packet of information from the RC and forward to the RRDP of each DC/CF to which placement may be appropriate for this person.
  - 3. Each RRDP receiving a packet will forward to the Clinical Program per facility procedure.
  - 4. Coordinate facility staff assessments of consumers, as needed.
  - 5. RRDPs receiving packets shall notify the originating RRDP of the Clinical Program's determination as to whether or not services and supports can be provided.
- F. Consult with the RC concerning admission status and legal commitment requirements.
  - 1. Assist, as appropriate, in obtaining needed court orders.
  - 2. Consult with the RC to ensure that the RC Director has notified the DC Executive Director pursuant to W & I Code Section 6500.
  - 3. When court orders are received, review and determine if procedures have been followed pursuant to the applicable legal code.

4. If it is determined that legal procedures were not followed and could not be resolved with the RC, notify the Executive Director or designee, who will notify the Chief Counsel's office of the Department's Office of Legal Affairs and request assistance.
  5. If legal matters are in order, proceed with admission.
- G. When the appropriate DC/CF placement is unclear or there are extenuating circumstances (beds not available, peer group not available, etc.), the affected RRDPs will discuss the issues with their facility Executive Director and initiate a conference call to determine placement. If a resolution cannot be found, the issue will be elevated to the affected Executive Directors who will consult with each other and the Deputy, Developmental Centers Division, for issue resolution.
- II. When a RC consumer is a resident of correctional facility (California Department of Corrections, California Youth Authority, or county jail) or a state mental hospital and the RC determines that the consumer needs DC services, they are to contact the RRDP in their area for assistance. The RRDPs will:
- A. Prepare a written assessment that includes:
    1. When appropriate, whether or not needed services such as competency training are available and could be provided in the current placement.
    2. The specific services and supports needed for this person that can be provided by the DC/CF.
    3. The specific services and supports needed by the individual that are not available in the current setting.
    4. An assessment of the danger to the health and safety of the public that is posed by this individual.
    5. Extenuating or mitigating circumstances that would affect the appropriateness of DC/CF placement.

- B. Fax, and follow up with a hard copy, the outcome of the completed assessment to the RC and to the Judge, Court Clerk, County Counsel, or District Attorney and Public Defender. The information going to the Court officers should have a cover letter which will include the case #, consumer's name, date of hearing, and show who received copies (cc).
- C. Assist the RC, as needed, in obtaining an alternate placement; or
- D. Coordinate DC/CF admission:
  - 1. Ensure that all appropriate assessments have been completed.
  - 2. Consult with the RC to ensure that the RC Director has notified the DC Executive Director pursuant to W & I Code Section 6500.
  - 3. When court orders are received, review and determine if procedures have been followed pursuant to the applicable legal code.
  - 4. If it is determined that legal procedures were not followed and could not be resolved with the RC, notify the Executive Director or designee, who will notify the Chief Counsel's office of the Department's Office of Legal Affairs and request assistance.
  - 5. If legal matters are in order, proceed with admission.