

Amended Mock-up for 2025-2026 AB-1897 (Haney (A))

**Mock-up based on Version Number 98 - Amended Assembly 3/18/26
Submitted by: Staff Name, Office Name**

Revised

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

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

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

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

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

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

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

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

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

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

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

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental health disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental health disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Parole Hearings pursuant to this paragraph, the Board of Parole Hearings shall order a further examination by two independent professionals, as provided for in Section 2978.

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

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

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

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

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

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

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

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

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

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

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

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

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

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

(N) A violation of Section 18745.

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(O) Attempted murder.

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

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

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

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

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

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

(b) A prisoner who disagrees with the determination of the Board of Parole Hearings that the prisoner meets the criteria of Section 2962 may file in the superior court of the county **of commitment to state prison** ~~in which the prisoner is incarcerated or is being treated~~ a petition for a hearing on whether the prisoner, as of the date of the Board of Parole Hearings hearing, met the criteria of Section 2962. The court shall conduct a hearing on the petition within 60 calendar days after the petition is filed, unless either time is waived by the petitioner or the petitioner’s counsel or good cause is shown. Evidence offered for the purpose of proving the prisoner’s behavior or mental status subsequent to the Board of Parole Hearings hearing shall not be considered. The order of the Board of Parole Hearings shall be in effect until the completion of the court proceedings. The court shall advise the petitioner of the right to be represented by an attorney and

of the right to a jury trial. The attorney for the petitioner shall be given a copy of the petition and any supporting documents. The hearing shall be a civil hearing. In order to reduce costs, the rules of criminal discovery, as well as civil discovery, shall be applicable. The standard of proof shall be beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The court may, upon stipulation of both parties, receive in evidence the affidavit or declaration of any psychiatrist, psychologist, or other professional person who was involved in the certification and hearing process, or any professional person involved in the evaluation or treatment of the petitioner during the certification process. The court may allow the affidavit or declaration to be read, and the contents thereof considered in the rendering of a decision or verdict in any proceeding held pursuant to this subdivision, or subdivision (c), or subdivision (a) of Section 2972. If the court or jury reverses the determination of the Board of Parole Hearings, the court shall stay the execution of the decision for up to 30 days to allow for an orderly release of the prisoner. The court may require the parties to return to the court during those 30 days to ensure that the entities involved in the release of the prisoner have coordinated an exit plan for the prisoner. If the court or jury reverses the determination of the Board of Parole Hearings, the Department of Corrections and Rehabilitation, upon a determination that the individual is eligible for release pursuant to Section 3451, shall notify the probation department of the county of supervision of the pending release within five working days of the court order and work with the county of supervision to coordinate the orderly and safe release of the prisoner.

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

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

~~**2970.** (a) Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the parolee's or prisoner's severe mental health disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital that is treating the parolee, or the community program director in charge of the parolee's outpatient program, or the Secretary of the Department of Corrections and Rehabilitation, shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital, the district attorney of the county of commitment to prison, a written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits.~~

~~(b) The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall be accompanied by affidavits specifying that treatment, while the prisoner was released from prison on parole, has been continuously provided by the State~~

Department of State Hospitals either in a state hospital or in an outpatient program. The petition shall also specify that the prisoner has a severe mental health disorder, that the severe mental health disorder is not in remission or cannot be kept in remission if the person's treatment is not continued, and that, by reason of the person's severe mental health disorder, the prisoner represents a substantial danger to the health and safety of others.

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

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

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

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

(c) If the court or jury finds that the patient has a severe mental health disorder, that the patient's severe mental health disorder is not in remission or cannot be kept in remission without treatment, and that by reason of the patient's severe mental health disorder, the patient represents a substantial danger to the health and safety of others, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which the patient was being treated at the time the petition was filed, or committed to the State Department of State Hospitals if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in Section 2970. Time spent on outpatient status, except when placed in a locked facility at the direction of the outpatient supervisor, shall not count as actual custody and shall not be credited toward the person's maximum term of commitment or toward the person's term of extended commitment.

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

(e) Prior to the termination of a commitment under this section, a petition for recommitment may be filed to determine whether the patient's severe mental health disorder is not in remission or

~~cannot be kept in remission without treatment, and whether by reason of the patient's severe mental health disorder, the patient represents a substantial danger to the health and safety of others. The recommitment proceeding shall be conducted in accordance with the provisions of this section.~~

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

~~(g) Except as provided in this subdivision, the person committed shall be considered to be an involuntary mental health patient and shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health, or its successor, the State Department of State Hospitals, may adopt regulations to modify those rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is being held. This subdivision and the regulations adopted pursuant thereto shall become operative on January 1, 1987, except that regulations may be adopted prior to that date.~~