



C A L I F O R N I A   D E P A R T M E N T   O F

# Mental Health

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January 01, 2000

DMH INFORMATION NOTICE NO:99-17

TO: LOCAL MENTAL HEALTH DIRECTORS  
LOCAL MENTAL HEALTH PROGRAM CHIEFS  
LOCAL MENTAL HEALTH ADMINISTRATORS  
COUNTY ADMINISTRATIVE OFFICERS  
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: REPORTING REQUIREMENTS FOR ASSEMBLY BILL (AB) 1587  
(CHAPTER 578, STATUTES OF 1999)

AB 1587 (Chapter 578, Statutes of 1999), introduced by Assembly Members Scott and Aroner, was signed by Governor Davis and chaptered September 29, 1999, as urgency legislation and taking effect immediately. This bill reestablishes reporting under section 8103(f) of the Welfare and Institutions Code by public and private mental health facilities to the Department of Justice (DOJ) on all persons who are admitted for evaluation under Welfare and Institutions Code Sections 5150, 5151, and 5152. This reporting was initially established in 1991 to implement the provisions of AB 497 (Chapter 9, Statutes of 1990) regarding the purchase of firearms. However, the reporting was discontinued in 1997 based on a writ of mandate issued by the Sacramento County Superior Court that it was a violation of due process, (*Dayacamos v Department of Justice*, Sacramento No. 96 CS 104711). AB 1587 establishes a provision to address the due process concern, and therefore, DOJ is reestablishing reporting requirements. As in the past, the reporting is to be done to DOJ directly by the facilities. Enclosed is Information Bulletin, Number 1999-02-FD, sent by DOJ to the facilities. I have been advised by DOJ that additional Information Bulletins will be sent out shortly with new forms and with dates for training.

The Department of Mental Health supports the efforts of DOJ in obtaining this information. As in the past, the current law states that all information provided is confidential and shall be used only for the purposes of firearms control. If you have any questions, please contact the DOJ at (916) 227-3703.

GARY M. PETTIGREW  
Deputy Director  
Systems of Care

Enclosures

cc: Chief, Technical Assistance and Training  
California Mental Health Planning Council

California Department of Justice FIREARMS DIVISION Randy Ross		<b>INFORMATION BULLETIN</b>
<i>Subject:</i>  <b>Assembly Bill (AB) 157 - Revised Mental Health Reporting Requirements</b>	<i>No:</i> <b>1999-02-FD</b>	<i>For further information contact:</i>  <b>Firearms Division (916) 227-3703</b>
	<i>Date:</i> <b>10-26-1999</b>	

## **IMPORTANT NOTICE**

### **TO: ALL PUBLIC/PRIVATE MENTAL HEALTH FACILITIES**

This is to notify you that the requirement to report to the Department of Justice (DOJ) persons admitted to public and private mental health facilities under Welfare and Institutions Code (WIC) sections 5150/5151/5152 (danger to self/danger to others (DTSO)) pursuant to WIC section 8103 (f)(2) has been re-established as a result of the chattering of urgency legislation, Assembly Bill (AB)1587. (Scott & Aroner).

#### Background

As you may recall, in May 1997, in the case P.J. Dayacamos vs. Department of Justice, the Superior Court for the County of Sacramento declared WIC section 8103(f) invalid as a violation of the due process guarantees of both the United States and California Constitutions. Subsequently, the court ordered the DOJ to: 1) immediately discontinue the enforcement of firearms prohibition requirements based upon WIC section 5150/5151/5152 DTSO reporting information; and, 2) purge/delete from its files the names of persons who were included solely based upon WIC section 5150/5151/5152 DTSO reports. The requirement for DOJ to purge/delete from its files WIC section 5150/5151/5152 DTSO individuals was later amended to allow the Department to ascertain whether or not these subjects' holds were extended past seventy-two (72) hours.

Accordingly, in May 1997, DOJ immediately directed public/private mental health facilities to discontinue reporting persons admitted pursuant to WIC section 5150/5151/5152 DTSO and to only submit reports to DOJ on those persons whose holds were extended pursuant to WIC sections 5250, 5260, or 5270.15.

As a result of the court's order, the Department amended its reporting form BCIA 4009 Mental Health Facilities Report of Firearms Prohibition to exclude information relative to persons admitted involuntarily under WIC section 5150/5151/5152 DTSO. The Department also directed individual public/private mental health facilities to discontinue reporting such information.

#### Recent Development

New legislation AB 1587, which was chaptered on September 29, 1999, establishes the necessary proceedings to address the due process concerns raised by the court regarding the reporting and use of WIC section 5150/5151/5152 DTSO patient information.

Accordingly, with the adoption of this legislative amendment, the original reporting requirement established pursuant to WIC section 8103 (f)(2) regarding persons admitted into public/private statewide mental health facilities to the DOJ under WIC section 5150/5151/5152 DTSO have been reinstated.

Additional steps have been added to the patient's discharge and notification process to ensure due process rights under both the United States and California Constitutions. These steps include: 1) improved formal notification to the patient that s/he is prohibited from owning/possessing firearms for a period of five years and that s/he has a right to a hearing to get relief from their firearm prohibition; and, 2) patients/former patients will be provided the opportunity to request a formal hearing to relieve them from their firearms prohibition upon discharge.

Consequently, DOJ is in the process of revising the Mental Health Facilities Report of Firearms Prohibition formerly known as form BCIA 4009. The form will include a section for reporting WIC section 5150/5151/5152 DTSO patient information to the Department. DOJ has also developed two new forms, one to support improved patient notification and another to enable affected individuals to request a hearing to obtain relief from their firearms prohibition. Within the next few weeks, you will receive a supply of both the revised Mental Health Facilities Report of Firearms Prohibition forms, new Patient Notification of Firearms Prohibition and Right to Hearing, and Request for Firearms Prohibition Hearing forms. These forms will be accompanied by an Information Bulletin which will provide instructions. Immediately upon receipt of these new forms, facilities should destroy leftover supplies of the old BCIA 4009 forms and begin using the new forms to report WIC section 5150/5151/5152 patient information to the Department.

Retroactive Reporting Requirement

Because the firearms prohibition period associated with WIC section 5150/5151/5152 DTSO former patients is for five years and the amendments to WIC section 8103 does not exclude persons whose WIC section 5150 admissions occurred prior to the chaptering of AB 1587, statewide public/private mental health facilities must immediately review their files and begin retroactive reporting of former WIC section 5150/5151/5152 DTSO patients admitted to their facility between the date the facility suspended the reporting of such information (e.g., approximately May 1997) through the date the facility receives its supply of new reporting forms.

We recognize that this may be somewhat of a burdensome task to accomplish. Nevertheless, this is a crucial public health and safety issue that requires our combined dedication and cooperation.

Thank you in advance for your cooperation. If you have any questions regarding this information, please feel free to contact the Firearms Division at (916) 227-3703.

Sincerely



RANDY ROSSI, Director  
Firearms Division

For BILL LOCKYER  
Attorney General