

SENATE THIRD READING  
SB 507 (Eggman and Stern)  
As Amended June 28, 2021  
Majority vote

## SUMMARY

Expands the criteria for court order Assisted Outpatient Treatment (AOT) if, a clinical determination has been made that in view of the person's treatment history and current, behavior, at least one of the following is true: a) the person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating b) the person is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to the person or to others, Expands the criteria for AOT to include an eligible conservatee who is the subject of a pending petition for termination of a conservatorship under the Lanterman-Petris-Short (LPS) to obtain AOT treatment, as specified. Requires the examining mental health professional to determine if the subject of the AOT petition has the capacity to give informed consent regarding psychotropic medication in their affidavit to the court. Permits the subject of the petition or the examining mental health professional to appear before the court for testimony by videoconferencing.

## COMMENTS

- 1) *Laura's Law*. Enacted in 2002 under AB 1421 (Thompson), Chapter 1017, Statutes of 2002, Laura's Law established a new court-ordered AOT demonstration program aimed at individuals with mental illness who meet specified criteria but who do not meet the criteria (danger to self or others or gravely disabled) for involuntary commitment to an inpatient facility. The law is named in memory of Laura Wilcox, a 19-year-old college student who was killed by a severely mentally ill man who was not adhering to a prescribed mental health treatment. AOT provides counties with the option to implement intensive programs for individuals who have difficulty maintaining their mental health stability in the community and have frequent hospitalizations and contact with law enforcement related to untreated or undertreated mental illness. Currently, Laura's Law requires a county Board of Supervisors to opt-in by resolution and to make a finding that access to voluntary mental health programs serving adults and children would not be reduced as a result of implementation. The law did not provide for any state or local funding, which has been perceived as one of the barriers to its statewide implementation. No county implemented Laura's Law program until Nevada County in 2008. As a way to encourage counties to opt-in, SB 585 (Steinberg), Chapter 288, Statutes of 2013, clarified that Mental Health Services Act funds could be used for AOT services if the county had implemented the program. Since then, and as of March 2020, 19 other counties have received approval and adopted a program: Alameda, Contra Costa, El Dorado, Kern, Los Angeles, Marin, Mendocino, Orange, Placer, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Shasta, Solano, Stanislaus, Ventura, and Yolo. In September 2020, AB 1976 (Eggman), Chapter 140, Statutes of 2020, was signed into law, which implements Laura's Law statewide, effective July 1, 2021, and permits counties to opt out of providing AOT services, as specified. According to DHCS, counties must submit their requests to DHCS to opt out no later than 60 days prior to the statewide implementation date of July 1, 2021. Data from the bill's sponsor indicates that ten additional counties are in the process of implementing Laura's Law: Fresno, Humboldt, Kings, Madera, Mariposa, Sacramento, Santa Clara, Siskiyou, Riverside, and Tulare.

- 2) *LPS Act*. The LPS Act was signed into law in 1967 and provides for involuntary commitment for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met. Additionally, the LPS Act provides for LPS conservatorships, resulting in involuntary commitment for the purposes of treatment if an individual is found to meet the criteria of being a danger to themselves or others or is gravely disabled as defined. The LPS Act provides for a conservator of the person, of the estate, or of both the person and the estate for a person who is gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism or use of controlled substances. The person for whom such a conservatorship is sought has the right to demand a court or jury trial on the issue of whether they meet the gravely disabled requirement. The purpose of an LPS conservatorship is to provide individualized treatment, supervision, and placement for the gravely disabled person. Current law also deems a person as not being gravely disabled for purposes of a conservatorship if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help. The LPS Act, along with the court ordered outpatient services available through Laura's Law provides a robust system for mandating intensive inpatient and outpatient care, along with general oversight, for those who may not be able to care for themselves.
- 3) *California State Auditor (CSA) audit on the LPS Act*. The CSA released "LPS Act: California Has Not Ensured That Individuals with Serious Mental Illnesses Receive Adequate Ongoing Care," on July 28, 2020. The audit focused on the following issues in three counties (Los Angeles, San Francisco, and Shasta):
  - a) Criteria for involuntary detention for those who are a danger to self or others or gravely disabled, due to a mental health condition, and criteria for conservatorship, and whether the counties have consistently followed those criteria;
  - b) Differences in approaches among the counties in implementing the LPS Act, if any;
  - c) Funding sources, and whether funding is a barrier to implementing the LPS Act; and,
  - d) Availability of treatment resources in each county.

Relative to this bill, the CSA stated many of the individuals who were placed on repeated LPS short-term holds or conservatorships struggled to maintain their stability after leaving treatment in large part because they frequently failed to take medication that was essential to managing their symptoms and maintaining themselves successfully in a community setting. The CSA found that many individuals were subjected to repeated instances of involuntary treatment without being connected to ongoing care that could help them live safely in their communities, as AOT services have shown to provide. For example, almost 7,400 people in Los Angeles County experienced five or more short-term involuntary holds from fiscal years 2015–16 through 2017–18, but only 9% were enrolled in the most intensive and comprehensive community-based services available in fiscal year 2018–19. The CSA stated that AOT is an effective approach to serving individuals in their communities, and made recommendations for the Legislature to require AOT services in all counties, as well as to expand access to AOT to people leaving conservatorship. The CSA further recommended that counties be allowed to provide express authority to include medication requirements in court-ordered AOT plans as long as the medication is self-administered. The provision requiring the examiner's affidavit to address the issue of whether a defendant has the capacity to give informed consent regarding psychotropic medication flags the medication issue for

both the court and the treatment team, and is the first step in establishing a successful strategy for medication adherence.

### **According to the Author**

In 2002, California enacted Laura's Law, which allows judges to order AOT for people with severe mental illness if they have a history of being jailed, hospitalized, and are a danger to self or others. In July 2020, the CSA released a report on the implementation of the LPS Act and recommended several changes and updates to AOT programs. The report found that individuals exiting involuntary holds have not been enrolled consistently in subsequent care to help them transition safely into the community while staying connected to vital resources. The report also found high numbers of individuals subject to multiple short-term ("5150") holds have not received continuing care in the intervals between those holds. About one in four individuals placed on conservatorships cycle back to restrictive settings, despite having successfully recovered their abilities to provide for basic needs at the time their conservatorships ended. The author concludes that this bill will update the eligibility requirements for AOT programs to capture those individuals who have cycled through multiple short-term holds, as well as those who have recently left conservatorships, allowing counties to provide effective treatment to individuals in the least restrictive setting.

### **Arguments in Support**

The Psychiatric Physicians Alliance of California (PPAC), sponsor of this bill, states that the CSA recommended AOT as step-down care for these individuals post-release but pointed out that current AOT criteria prevented the use of AOT in these situations because it requires a current deteriorating condition. PPAC concludes by stating that immediately after release from a LPS hold these individuals would not be in a state of deterioration, even though there is a significant risk of deterioration in the future, and it is predictable given the individual's history that they will cycle back through a series of involuntary holds. The California State Association of Psychiatrists (CSAP), in support of this bill, states that about one in four individuals placed on conservatorships cycle back to restrictive settings, despite having successfully recovered their abilities to provide for basic needs at the time their conservatorships ended. CSAP concludes that this bill would clarify that when a person's treatment history and current behavior make it reasonably likely that they are at significant risk for deterioration, they are eligible for an AOT program.

### **Arguments in Opposition**

The California Association of Social Rehabilitation Agencies (CASRA) states in opposition that one of their core values is that all mental health treatment be voluntary. As a result, CASRA opposed "Laura's Law" in 2002, and since then has opposed every attempt to expand involuntary outpatient commitment in California. This bill would further loosen the criteria under which an individual could be ordered by a judge to be subject to involuntary outpatient commitment. CASRA goes on to state that the use of the word "assisted" camouflages the true nature of these types of interventions. Effective assistance comes from a collaborative effort between the recipient of treatment and the provider of treatment: "compliance" with treatment can't be coerced. CASRA points out that when it comes to treatment compliance argument, the approximately two thirds of individuals who do not show up for their second outpatient mental health appointment is not evidence of a shared psychosis, but rather the consequence of systems, both public and private that for too long has continued to blame the "customer". CASRA concludes that the that California lacks enough adequate, voluntary and quality services for those

individuals who need and want them and resources should be used to address these pressing needs.

## **FISCAL COMMENTS**

The Department of Health Care Services reports that there would be no fiscal impact.

## **VOTES**

### **SENATE FLOOR: 38-0-2**

**YES:** Allen, Archuleta, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

**ABS, ABST OR NV:** Atkins, Limón

### **ASM HEALTH: 15-0-0**

**YES:** Wood, Mayes, Aguiar-Curry, Eduardo Garcia, Bigelow, Burke, Carrillo, Flora, Maienschein, McCarty, Nazarian, Luz Rivas, Rodriguez, Santiago, Waldron

### **ASM JUDICIARY: 10-0-1**

**YES:** Stone, Gallagher, Chau, Chiu, Davies, Lorena Gonzalez, Holden, Kalra, Maienschein, Reyes

**ABS, ABST OR NV:** Kiley

## **UPDATED**

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