
UNFINISHED BUSINESS

Bill No: SB 507
Author: Eggman (D) and Stern (D), et al.
Amended: 6/28/21
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 3/24/21

AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

SENATE JUDICIARY COMMITTEE: 11-0, 4/6/21

AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21

AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 38-0, 5/28/21

AYES: 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

NO VOTE RECORDED: Atkins, Limón

ASSEMBLY FLOOR: 70-0, 8/23/21 - See last page for vote

SUBJECT: Mental health services: assisted outpatient treatment

SOURCE: Psychiatric Physicians Alliance of California

DIGEST: This bill broadens criteria to permit assisted outpatient treatment (AOT) for a person who is in need of AOT services, as specified, without also requiring the person's condition to be substantially deteriorating. This bill permits specified individuals to testify at a court hearing via videoconferencing, as

specified. This bill permits a court to order AOT for eligible conservatees, as specified, when certain criteria are met.

Assembly Amendments permit a court to order AOT for a person who meets the definition of an eligible conservatee when specified criteria are met, including that the person would benefit from AOT to reduce the risk of deteriorating mental health while living independently.

ANALYSIS:

Existing law:

- 1) Permits a county Board of Supervisors, by resolution, until July 1, 2021, to authorize (opt-in to) AOT services, also known as “Laura’s Law,” whereby a county behavioral health director can petition for a court to order a person over the age of 18 with a mental illness to receive AOT if the court finds the individual meets specified criteria, including: a clinical determination that the person is unlikely to survive safely in the community without supervision; the person has a history of noncompliance with treatment for his or her mental illness; the person's condition is substantially deteriorating; and participation in AOT would be the least restrictive placement necessary to ensure the person's recovery. [WIC §5346]
- 2) Implements Laura’s Law statewide, beginning July 1, 2021, and permits a county or group of counties that do not wish to implement Laura’s Law to opt out of the requirements of AOT services through a specified process. Requires such counties to state the reason for opting out. [WIC §5346]
- 3) Permits specified individuals to make a request to the county health department for the filing of a petition to obtain an order authorizing AOT, including a parent, spouse, sibling, or adult child of the subject of the petition; licensed mental health treatment providers; and peace officer, parole officer, or probation officer, as specified. [WIC §5346]
- 4) Requires a petition for AOT services to be accompanied by an affidavit of a licensed mental health treatment provider regarding the examination of the subject of the petition and the provider’s willingness to testify at the hearing. Prohibits a court from ordering AOT unless the provider testifies in person. [WIC §5346]
- 5) Requires the subject of a petition to have specified rights, including to cross-examine witnesses, receive adequate notice of the hearing, and be present at the hearing, unless the subject of the petition waives the right to be present. [WIC §5346]

- 6) Establishes the Lanterman-Petris-Short (LPS) Act to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, as well as to safeguard a person's rights, provide prompt evaluation and treatment, and provide services in the least restrictive setting appropriate to the needs of each person. Permits the involuntary detention of a person who is found to be a danger to self or others, or gravely disabled, for various periods of time for evaluation and treatment. [WIC §5000, et seq.]
- 7) Defines "gravely disabled" as a condition in which a person, as a result of a mental disorder or impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter, or a condition in which a person has been found mentally incompetent, as specified, for purposes of detaining the person for assessment, evaluation, and treatment; providing a court-ordered evaluation, as specified; certifying the person for intensive treatment; or, placing the person under conservatorship. [WIC §5008]

This bill:

- 1) Broadens criteria to permit AOT in order to prevent a relapse or deterioration that would result in a person becoming gravely disabled or a serious harm to self or others, as specified, without also requiring the person's condition to be substantially deteriorating.
- 2) Permits the subject of the petition for AOT services or an examining mental health professional to appear before the court for testimony by videoconferencing means, as specified.
- 3) Requires an examining mental health professional's affidavit to the court to address the issue of whether the subject of the petition has the capacity to give informed consent regarding psychotropic medication.
- 4) Permits a court to order a person to obtain AOT if the court makes specified findings, including that the person meets the definition of an "eligible conservatee." Defines "eligible conservatee" as a person who, among other things, is a conservatee under the LPS Act and is the subject of a petition to end the conservatorship, and the person would benefit from AOT to reduce the risk of deteriorating mental health while living independently.

Comments

- 1) *Author's statement.* 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 California State Auditor (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. 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.

- 2) *Laura’s Law*. Enacted pursuant to 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 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’s 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 and Correa, 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, 18 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, 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 the Department of Health Care Services (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.

- 3) *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 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. According to information provided by the author of this bill, 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

According to the Assembly Appropriations Committee, the Department of Health Care Services reports that there would be no fiscal impact.

SUPPORT: (Verified 8/24/21)

Psychiatric Physicians Alliance of California (source)
California Association of Public Administrators, Public Guardians, and Public Conservators
California Medical Association
California Psychological Association
California State Association of Psychiatrists
County Behavioral Health Directors Association of California
Judicial Council of California
National Alliance on Mental Illness-California
State Building & Construction Trades Council of California
Tenet Healthcare

OPPOSITION: (Verified 8/24/21)

Cal Voices
California Association of Social Rehabilitation Agencies
California Behavioral Health Planning Council
Depression and Bipolar Support Alliance
Disability Rights California

ARGUMENTS IN SUPPORT: The Psychiatric Physicians Alliance of California (PPAC), sponsor of this bill, the California State Association of Psychiatrists, and the County Behavioral Health Directors Association of California support this bill and state 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. PPAC argues that the CSA recommended AOT as step-down care to 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 states immediately after release from a hold these individuals would not be deteriorating even though there is a significant risk of deterioration, and it's predictable the individual will cycle back through a series of involuntary holds. The Judicial

Council of California requests this bill be amended to clarify that “videoconferencing” is at the court’s discretion and that the term be changed to use language that is technology neutral.

ARGUMENTS IN OPPOSITION: The California Behavioral Health Planning Council argues that while expanding the definition of gravely disabled may result in less individuals on the street, it would be at the expense of individual’s civil liberties, and any effort to institutionalize an individual involuntarily is counterproductive to the wellness and recovery model that California embraces, which allows an individual to choose how, when, and where they are to receive services/treatment related to mental health and/or substance use. Furthermore, expanding the definition would set a new precedence and lead to more civil liberties being taken from individuals.

The California Association of Social Rehabilitation Agencies argues that when it comes to the 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 have continued to blame the customer for their inability to make the sale. The sad truth of the matter is that California lacks enough adequate, voluntary and quality services for those individuals who need and want them.

ASSEMBLY FLOOR: 70-0, 8/23/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mayes, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bennett, Bryan, Cervantes, Davies, Gray, Mathis, McCarty, Nguyen, Valladares

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/25/21 14:14:24

***** END *****