

SENATE THIRD READING
SB 929 (Eggman)
As Amended August 25, 2022
Majority vote

SUMMARY

Expands the Department of Health Care Services' (DHCS) existing responsibility to collect and publish information about involuntary detentions under the Lanterman-Petris-Short (LPS) Act to include additional information, such as clinical outcomes, services provided, demographic data, numbers and types of detentions and conservatorships and availability of treatment beds.

Requires the Judicial Council to provide DHCS with data from each superior court to complete the DHCS required report. Requires each county behavioral health director or other entity involved in implementing the LPS Act to provide the data as prescribed by DHCS. Authorizes DHCS to impose a plan of correction against a facility or county that fails to submit data timely or as required.

Major Provisions

COMMENTS

- 1) *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 because 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.
- 2) *Assembly Joint Hearing on LPS Act.* On December 15, 2021, the Assembly Health and Judiciary Committees held a joint informational hearing entitled "The LPS Act: How Can it be Improved?" One of the biggest concerns expressed throughout the hearing was the lack of coordination between the treatment facilities, county mental health departments, courts, and the public conservators around the care and treatment provided to individuals detained on involuntary holds. Another key issue discussed during the hearing was the almost total lack of reliable data about the nature, types, and numbers of holds throughout the state in general and more importantly for patient care by individual counties. Of the reporting mandates, there is little related to both the use and effectiveness of the LPS system. What must be noted in the reporting that is required is that a little over 50% of the counties either do not have a

reporting requirement since they do not have a "designated facility" within their county, do not report the requested data at all or provide incomplete data making it nearly impossible to determine at any point in time what the actual LPS caseload is or has been for any given year. Such lack of data also makes it difficult to fully understand the extent to which the LPS system is used, and to evaluate the act in order to plan and forecast services and resources needed to provide appropriately for the LPS population. Additionally, under existing law, there are no consequences to counties who fail to either report data or provide incomplete data. AB 2275 (Wood and Stone) of 2022 and SB 929 (Eggman) also of 2022 address issues raised during the hearing and are aimed at enhancing LPS reporting requirements in order to obtain meaningful data upon which to evaluate the LPS Act.

According to the Author

This bill is intended to address a data shortfall that exists on what services are provided to those under various LPS Act holds and related outcomes. Due to our fragmented mental health system, many different entities are involved in the identification, investigation, treatment, and follow-up for those with a severe mental illness experiencing grave disability, or dangerousness to self or others. Current data reporting requirements are inadequate to track the disposition and outcomes for these individuals. Historically, changes to treatment law and service delivery system configurations at both the state and federal level followed the passage of LPS, resulting in the slashing of federal funding for community mental health, and shifting mental health program responsibility to the counties. Voters then passed the Mental Health Services Act in 2004 to provide dedicated funding for community supports and services, and prevention and early intervention. Shifting responsibility to the counties can provide for more nuanced decision-making around local needs, but it has also hindered our ability to fully understand how programs have worked across the state. The author concludes that throughout all of these changes, we have lacked crucial data about how the LPS Act has worked and some additional ways that services provided under involuntary detention treatment orders can be improved to ensure the best outcomes.

Arguments in Support

The Psychiatric Physicians Alliance of California (PPAC), sponsor of this bill, states that this bill is intended to address a data shortfall that exists for services provided to those under various LPS Act holds by quantifying outcomes and quality measures. Current law limits reporting to raw numbers of individuals placed on each type of involuntary hold. The purposes of transparency and oversight for these services, as well as identifying barriers in access to and quality of care, require more than the raw data currently reported. PPAC concludes that more comprehensive data would tell us what is working well and help us identify best practices. It would also identify what is not working well.

The Depression and Bipolar Support Alliance (DBSA) states in a support position, that the state clearly lack crucial and appropriate data about how the LPS Act has worked and some additional ways that services provided under involuntary treatment orders can be improved to ensure the best outcomes. DBSA states that DHCS is currently required to collect and publish data on the numbers of holds under the LPS Act, but there are numerous challenges to getting a complete picture of what is provided and how it impacts outcomes.

Arguments in Support if Amended

CBHDA states in a support if amended position that DHCS's current responsibility to collect and publish data has been inconsistent due to unclear instructions on what data should be collected

from whom and conflicting interpretations of existing laws and regulations. For example, counties and patients' rights entities are both required to receive and report data, but often encounter barriers with compelling accurate and thorough reporting from independently run health facilities, which may or may not be contracted or linked to county behavioral health, as those facilities have no requirement to report to counties or the state under current law. In addition, because the law is focused on facility-based reporting, large swaths of involuntary holds are not captured, including those placed by law enforcement. CBHDA concludes that the result is uneven and inadequate reporting of the current landscape of involuntary holds.

Arguments in Opposition

There is no known opposition to this bill.

FISCAL COMMENTS

According to the Assembly Appropriations Committee: DHCS estimates costs of \$1.45 million (\$725,000 General Funds (GF) and \$725,000 Federal Funds (FF)) in fiscal year (FY) 2023-24 and \$1.37 million (\$685,000 GF and \$685,000 FF) in FY 2024-25 and ongoing to hire seven permanent staff members to manage and interpret the data collected to implement this bill, and three contract staff for one year to provide technical leadership and specialized subject-matter expertise for planning and delivery of the technology components and all activities associated with building and implementing the new system and modifying existing systems within DHCS. Additionally, there would be costs to local entities of an unknown amount to provide new types of data to DHCS upon its request. These costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

VOTES

SENATE FLOOR: 38-0-2

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

ABS, ABST OR NV: Hertzberg, Jones

ASM HEALTH: 15-0-0

YES: Wood, Waldron, Aguiar-Curry, Arambula, Bigelow, Carrillo, Flora, Maienschein, Mayes, McCarty, Nazarian, Luz Rivas, Rodriguez, Santiago, Akilah Weber

ASM APPROPRIATIONS: 16-0-0

YES: Holden, Bigelow, Bryan, Calderon, Arambula, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, McCarty

UPDATED

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