SENATE COMMITTEE ON HEALTH
Senator Dr. Richard Pan, Chair

BILL NO: SB 929
AUTHOR: Eggman
VERSION: February 7, 2022
HEARING DATE: March 23, 2022
CONSULTANT: Reyes Diaz

SUBJECT: Community mental health services: data collection

SUMMARY: Expands the Department of Health Care Services' responsibility in current law to collect and publish information about involuntary detentions to include additional information, such as clinical outcomes, services provided, and availability of treatment beds.

Existing law:
1) 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.]

2) Requires the Department of Health Care Services (DHCS) to collect and publish annually quantitative information concerning involuntary detentions and the operation of community mental health services, including:

    a) The number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day post certification intensive treatment;
    b) The number of persons transferred to mental health facilities, as specified;
    c) The number of persons for whom temporary conservatorships are established; and,
    d) The number of persons for whom conservatorships are established in each county. [WIC §5402]

This bill: Expands DHCS's responsibility in current law to collect and publish information about involuntary detentions to include the following additional information:

    a) The clinical outcomes for those placed in each type of involuntary detention;
    b) The services provided in each category of involuntary detention;
    c) The waiting periods for individuals prior to receiving care;
    d) Current and future needs for treatment beds and services;
    e) An assessment of all contracted beds;
    f) Historical information on county bed waiting lists and referrals to certain types of facilities; and,
    g) Plans for the creation of new beds.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

COMMENTS:

1) *Author's statement.* 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. 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.

2) *LPS Act involuntary detentions.* The LPS Act provides for involuntary detentions for varying lengths of time for the purpose of evaluation and treatment, provided certain requirements are met, such as that an individual is taken to a county-designated facility. Typically, one first interacts with the LPS Act through a 5150 hold initiated by a peace officer or other person authorized by a county, who must determine and document that the individual meets the standard for a 5150 hold. A county-designated facility is authorized to then involuntarily detain an individual for up to 72 hours for evaluation and treatment if they are determined to be, as a result of a mental health disorder, a danger to self or others, or gravely disabled. The professional person in charge of the county-designated facility is required to assess an individual to determine the appropriateness of the involuntary detention prior to admitting the individual. Subject to various conditions, a person who is found to be a danger to self or others, or gravely disabled, can be subsequently involuntarily detained for an initial up-to 14 days for intensive treatment, an additional 14 or 30 days, and ultimately a conservatorship, which is typically for up to a year. Throughout this process, existing law requires specified entities to notify family members or others identified by the detained individual of various hearings, where it is determined whether a person will be further detained or released, unless the detained person requests that this information is not provided.

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.

The CSA found, among other things, that the LPS Act's current criteria for involuntary treatment allows counties sufficient authority to provide short-term involuntary treatment to people and that expanding the LPS Act's criteria to include additional situations in which individuals may be involuntarily treated could potentially infringe upon people's liberties, finding no evidence to justify such a change. That finding was related to previous attempts in the Legislature to expand the definition of "gravely disabled," as some have argued that the LPS Act does not adequately contemplate a person's inability to recognize either their mental or physical deterioration. The CSA further stated that perhaps most troublingly was that many individuals were subjected to repeated instances of involuntary detention without being connected to ongoing care that could help them live safely in their communities. The CSA also concluded that a dearth of community-based mental health treatment services, and the inability for specific individuals to access intensive treatment like assisted outpatient treatment (known as "Laura's Law"), are the major reasons that individuals with mental health challenges deteriorate or relapse into a condition that necessitates a conservatorship. The CSA highly cautioned against the Legislature expanding LPS Act criteria or the definition of "gravely disabled." This bill, while it does not expand the definition of gravely disabled, as past Legislative efforts have, it requires DHCS to collect and publish extensive data for the purpose of helping to improve the LPS Act process and treatment of those with a mental health disorder.

4) *Assembly Joint Hearing on LPS Act.* On December 15, 2021, the Assembly Health and Judiciary Committees held a joint informational hearing titled "The LPS Act: How Can it be Improved?" One of the biggest concerns expressed throughout the hearing was the lack of coordination between treatment facilities, mental health departments, courts, and the public conservators around the care and treatment provided to individuals placed on involuntary detentions. The County Behavioral Health Director's Association (CBHDA) testified that they might not even know when an individual within their county is detained and subsequently released on an LPS hold. This person may or may not already be engaged with community-based mental health services, and unless the county is made aware of the hold, they are unable to coordinate continued care or initiate needed outpatient care. 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. This lack of data makes it nearly impossible for the state and counties to assess whether the LPS Act is functioning appropriately, to assess what steps need to be taken for improvement, and to develop both short and long-term strategies around such services as patient care coordination and housing needs.

5) *Related legislation.* SB 1154 (Eggman) requires the California Department of Public Health (CDPH), in consultation with other state entities and specified stakeholders, to develop a real-time, Internet-based database to collect, aggregate, and display information about beds in various treatment facilities in order to facilitate the identification and designation of facilities for the temporary treatment of individuals in mental health or substance use disorder crisis. *SB 1154 is pending in this Committee.*

6) *Prior legislation.* AB 682 (Eggman of 2019), AB 1136 (Eggman of 2018), and AB 2743 (Eggman of 2016) were substantially similar to SB 1154. *AB 682 was held on the Assembly Appropriations Committee suspense file. AB 1136 was held on the Senate Appropriations Committee suspense file. AB 2743 was held on the Assembly Appropriations Committee suspense file.*

7) *Support.* The Psychiatric Physicians Alliance of California, 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. 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 Big City Mayors Coalition states that they have seen firsthand how our communities have struggled to provide appropriate and timely care to those experiencing severe mental illness. The Coalition does not typically sponsor bills, but we feel that the level of crisis we are facing is a top priority that we must all commit to solving. The Coalition argues that this bill will help us better understand the current state of our LPS system and how it cares for thousands of vulnerable Californians, as well as provide information that will help evaluate the services and strategies currently utilized and allow the state to improve outcomes for those who are served. The Depression and Bipolar Support Alliance (DBSA) states that we 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 argues 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.

8) *Support if amended.* CBHDA states 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. The result is uneven and inadequate reporting of the current landscape of involuntary holds. CBHDA supports this bill if it includes the following amendments that draw from their experience of attempting to collect LPS data and that they believe would strengthen the intent of this bill:

    a) Require data to be collected from any entity authorized to place/release involuntary holds to improve evaluation of statewide trends and outcomes;
    b) Require facilities to directly report to counties and the state in a uniform format;
    c) Require reporting to be disaggregated by payer type; and,
    d) Require inclusion of reasons for waiting periods to inform policymaking and system improvements.

SUPPORT AND OPPOSITION:

Support: Psychiatric Physicians Alliance of California (sponsor)
Big City Mayors Coalition
Depression and Bipolar Support Alliance

Oppose: None received

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