



San Gabriel Valley Council of Governments

AGENDA AND NOTICE

OF MEETING OF THE HOMELESSNESS COMMITTEE

Wednesday, July 3rd, 2019, 8:30 AM

West Covina Council Chambers Meeting Room
1444 W Garvey Ave S, West Covina, CA 91790

HOMELESSNESS COMMITTEE

Chair

Becky Shevlin
City of Monrovia

Vice-Chair

Margaret Clark
City of Rosemead

MEMBERS

Alhambra
Baldwin Park
Claremont
Duarte
Glendora
Monrovia
Pomona
Rosemead
West Covina
LA County
Supervisorial
District #1

EX OFFICIO

J. Lyons
W. Huang

Thank you for participating in today's meeting. The Homelessness Committee encourages public participation and invites you to share your views on agenda items.

MEETINGS: *Regular Meetings of the Homelessness Committee are held on the first Wednesday of each month at 8:30 AM at the West Covina Council Chambers Meeting Room (1444 W. Garvey Avenue S., West Covina, CA 91790).* The Meeting agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, www.sgvkog.org. Copies are available via email upon request (sgv@sgvskog.org). Documents distributed to a majority of the Committee after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

CITIZEN PARTICIPATION: Your participation is welcomed and invited at all Committee meetings. Time is reserved at each regular meeting for those who wish to address the Board. SGVCOG requests that persons addressing the Committee refrain from making personal, slanderous, profane or disruptive remarks.

TO ADDRESS THE COMMITTEE: At a regular meeting, the public may comment on any matter within the jurisdiction of the Committee during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The Committee may not discuss or vote on items not on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the Committee. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the Committee can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Committee member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Committee.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.



PRELIMINARY BUSINESS

1. Call to Order
2. Roll Call
3. Public Comment (*If necessary, the Chair may place reasonable time limits on all comments*)
4. Changes to Agenda Order: Identify emergency items arising after agenda posting and requiring action prior to the next regular meeting (*It is anticipated the Committee may take action*)

CONSENT CALENDAR

(It is anticipated the Committee may take action on the following matters)

5. Homeless Committee Meeting Minutes – 6/5/2019, Page 3
Recommended Action: Approve

DISCUSSION ITEMS

(It is anticipated the Committee may take action on the following matters)

6. S.B. 1045 (Wiener, Stern) Conservatorship: Serious Mental Illness and Substance Use Disorders – Erick Matos, Health and Legislative Affairs Deputy, Supervisor Kathryn Barger, Page 6
Recommended Action: Discuss

PRESENTATIONS

(It is anticipated the Committee may take action on the following matters)

7. Veteran Homelessness and Solutions – Dominic Lopez, Community Care Outreach, VA Greater Los Angeles Healthcare System; Linda Lopez, West Covina Rotary Field of Valor Project; Joe Leal, Founder, Vet Hunters Project, Page 29
Recommended Action: For information only.

ACTION ITEMS

8. AB 1275 (Santiago) – Mental Health Services: County Pilot Program, Page 30
Recommended Action: Discuss and provide direction.

COMMITTEE MEMBERS REPORTS

(It is anticipated the Committee may take action on the following matters)

9. RHTF Working Group, Page 33
Recommended Action: For information only.

CHAIR'S REPORT

(It is anticipated the Committee may take action on the following matters)

10. Solicitation of presentation topics.
Recommended Action: For discussion.

ADJOURN



SGVCOG Homelessness Committee Approved Minutes

Date: June 5, 2019

Time: 8:30 AM

Location: West Covina Council Chambers Meeting Room; 1444 W. Garvey Avenue
South, West Covina, California 91790

PRELIMINARY BUSINESS

- 1. Call to Order
The meeting was called to order at 8:30 AM
- 2. Introductions
- 3. Roll Call

Homeless Committee Members Present

Y. Ruizesparza, Baldwin Park
 J. Leone, Claremont
 K. Davis, Glendora
 B. Shevlin, Monrovia
 M. Clark, Rosemead
 B. DeFrank, Pomona

Homeless Committee Members Absent

T. Paras-Caracci, Duarte
 L. Johnson, West Covina
 F. Briones, LA County District 1

Ex Officio Member Present

B. Huang, Pasadena

Ex Officio Members Absent

J. Lyons, SGV Consortium on Homelessness

Guests

E. Ben-Ishai, LA County HI
 A. Hegdahl, Irwindale
 L. Colchado, LA County HI
 R. Corral, Corral Consulting
 M. Covarrubias, Montebello
 S. Morrissey, USHS
 S. Chamberlain, SGV Consortium
 S. Balli, Irwindale
 L. Kane, SGV Consortium

D. Lopez, Glendora
 T. Hadloc, Duarte
 D. Alcedo, LAHSA
 Y. Ruizesparza, Baldwin Park
 M Norden-Bright, Claremont
 A. Ovalle, LA County CEO
 E. Ben-Ishai, County HI
 B. Sandoval, Everyone In

SGVCOG Staff

J. Cicco

K. Ward

- 4. Public Comment
Scott Chamberlain advised that the Consortium will hold a Homeless Summit on June 29, 2019 in the Hughes Center in Claremont. He introduced the Consortium’s new staff member, Lee Kane.
- 5. Changes to Agenda Order: There were no changes to the agenda order.

CONSENT CALENDAR

- 6. Homelessness Meeting Minutes
There was a motion to approve consent calendar item 5 (M/S: K. Davis/ M. Clark)

[Motion Passed]

AYES:	Baldwin Park, Claremont, Glendora, Monrovia, Rosemead, Pomona
NOES:	
ABSTAIN:	
ABSENT:	Duarte, LA County District 1, West Covina

PRESENTATIONS

6. Homeless Count 2019 Results, Pasadena and Los Angeles County
 Clementina Verjan and Sabrina De Santiago provided the results of the 2019 Point-in-Time Homeless Count in Los Angeles County and Ex Officio Member Bill Huang provided information on the Pasadena Count. The LA Count data was highlighted with San Gabriel Valley data where available. Both LA County and Pasadena provided analysis regarding successes and challenges highlighted by the data.
7. Homeless Initiative Quarterly Report #13
 Elizabeth Ben-Ishai provided data on the Homeless Initiative efforts from June 2017 through March 2019. The Committee members discussed the implication of the Count, the Homeless Initiative and Measure H. Member Clark inquired about the likely percentage of mental illness and substance abuse within the homeless population. Member Leano explored how accessory dwelling unit incentives support success. Member Davis emphasized the importance of prevention to stem the inflow into homelessness. Member DeFrank noted that the impact of a shelter in the community is a visible reduction in street homelessness. A presentation on homeless prevention was requested for a future meeting.

DISCUSSION ITEMS

8. AB 302 (Berman)
 Staff provided an overview of AB 302 (Berman) Parking: Homeless Students. Ex Officio Member Huang provided the City of Pasadena’s concerns regarding this measure. He noted that, although the bill’s language was recently changed to allow for funding to support community colleges’ implementation of the program, he found in his discussion with Pasadena City College that the colleges are concerned about full reimbursement from the State in a timely fashion. Additional concerns about successfully managing the efforts of friends and family members that may attempt to join students in the parking program. Other areas of concern are managing the use of restrooms and shower and implementing effective security in such a setting. The City of Pasadena has submitted a letter of opposition to the measure.

There was a motion to recommend a letter of opposition to AB 302 from the SGVCOG Governing Board (M/S: B. DeFrank/ M. Clark)

[Motion Passed]

AYES:	Baldwin Park, Claremont, Glendora, Monrovia, Rosemead, Pomona
NOES:	
ABSTAIN:	
ABSENT:	Duarte, LA County District 1, West Covina

UPDATE ITEMS

8. Legislative Updates

LA County Chief Executive Office Legislative Analyst, Angela Ovalle, provided information on the following items: SB 329 (Mitchell) – Source of Income Discrimination; AB 653 (Bloom) – West LA Armory Bridge Housing; AB 36 (Bloom) – Rent Control; AB 1481 (Bonta) – Just Cause Evictions; AB 1482 (Chiu) – Annual Rent Increase Caps; SB 18 (Skinner) – Tenant Protection in Foreclosed Property. She additionally informed the Committee about the status of the Governor’s, Assembly’s and Senate’s budgeted homeless packages. The County of Los Angeles sponsored SB 329, which would prohibit discrimination by landlords against tenants who receive housing rental subsidies or housing vouchers and AB 653, which would authorize the State to lease a portion of the West L.A. Armory to the County for the construction of a year-round bridge housing project. The legislature and the Governor will negotiate on budget language for the identified \$650,000,000 in one-time funds identified for homeless programs to determine whether these funds will be allocated to counties as well as to large cities (with populations over 300,000) and continua of care.

9. Measure H and the Homeless Initiative

CEO Staff, Elizabeth Ben-Ishai, provided updates on Measure H funding allocations and grants and the Homeless Initiative. The resubmission of the 2018 Implementation RFPs has been extended to May 15, 2019. Committee members asked if the CEO will recommend the allocation of new Measure H funds for cities in the 2019-20 County Budget. Ms. Ben-Ishai stated that, although no new funds will be recommended, unallocated funds will be carried forward. The amount of the carry forward is not known at this time.

COMMITTEE MEMBER ITEMS

10. RHTF Working Group

Due to time constraints, the Working Group will submit its report in writing to the Homelessness Committee at a future date.

CHAIR’S REPORT

11. Solicitation of presentation topics

In addition to the recommendation for a meeting focused upon homelessness prevention, the members requested a meeting to provide information on mental health and substance abuse programs

ADJOURN

The meeting was adjourned at 10:25 AM

REPORT

DATE: July 3, 2019

TO: SGVCOG Homelessness Committee

FROM: Marisa Creter, Executive Director

RE: **SB 1045 (WIENER, STERN) – CONSERVATORSHIP: SERIOUS MENTAL ILLNESS AND SUBSTANCE USE DISORDERS**

RECOMMENDED ACTION

For information and discussion.

BACKGROUND

SB 1045 (Wiener, Stern) – Conservatorship: Serious Mental Illness and Substance Use Disorders, was signed into law September 27, 2018. The law establishes a procedure for the counties of Los Angeles and San Diego, and the City and County of San Francisco, to appoint a conservator for a person who is incapable of caring for their own health and well-being due to a serious mental illness and substance use disorder, known as co-occurring disorders.

In order to qualify for conservatorship, an individual must be dually-diagnosed with a serious mental illness and with a substance use disorder and have been brought to the psychiatric emergency room at least eight times in a 12-month period under an involuntary “5150” emergency hold. An investigation of all available alternatives to a conservatorship must be made with a finding that less restrictive alternatives do not exist, and it appears that the person does not qualify for a conservatorship under other statutes. The least restrictive clinically appropriate alternative needed for the protection of the person must be provided. Further, there must be a finding that a previous attempt to obtain a court order assisted outpatient treatment was denied or the assisted outpatient treatment was insufficient to treat the person’s mental illness and that assisted outpatient treatment would be insufficient to treat the person at that time. .

While conservatees can be held involuntarily, they can’t be forced to take medication and would be represented by a public defender. Conservatees retain the right to petition for a rehearing of their conservatee status. Care must be provided in the conservatee’s residence or a community-based residential care setting in supportive community housing that provides wraparound services. Conservatorship under this statute would automatically terminate at the end of one year, or a shorter period, if ordered by the court. At the end of the conservatorship individuals are guaranteed permanent housing.

Implementation of SB 1045 begins with authorization by the county board of supervisors to implement the law. The county must establish a working group, comprised of representatives of local agencies and disability rights advocacy groups, among others, to conduct an evaluation of the effectiveness of the conservatorship. The working group must determine that all of the required

conditions are met and that the designated conservator that does not present a conflict of interest to the well-being of the conservatee. The working group is required to prepare and submit preliminary and final reports to the Legislature.

On June 4, 2019, the City and County of San Francisco passed legislation introduced by the mayor and a supervisor authorizing it to implement SB 1045. It is the first of the three Counties to do so. This authorization is accompanied by last year's allocation of funding for 100 new treatment beds and an additional 100 new beds for the coming year. San Francisco added a clarifying amendment to the program specifying that repeated offers for voluntary services, including treatment, must be made prior to an individual being deemed eligible for conservatorship.


Concerns about the implementation of SB 1045 exist on both sides. The ACLU provided a statement paper in opposition to SB 1045. It highlights the extensive loss of personal sovereignty over one's life. The Organization expressed concern over the potential incentive embedded in the legislation to detain people on 5150 holds to meet the required eight holds within a 12-month period. The ACLU further asserts that homeless people with mental health disabilities do not refuse services but rather that services are not available, citing long waiting lists for shelter and housing as well as substance abuse treatment. It cited data showing that 40% of clients discharged from psychiatric emergency services are not offered linkage services at exit.

From an alternate perspective, as found in a June 7th Washington Post article, it is recognized that only the most gravely disabled people will be eligible for conservatorship under SB 1045. The San Francisco Department of Public Health estimates that approximately 50 of the most acute individuals in San Francisco would be eligible for this form of conservatorship. The Department cites a need to update San Francisco's conservatorship program since current policy reflects laws that were written when substance abuse was not tied to many of the powerful drugs available today.

Senator Scott Wiener, the author of SB 1045, has introduced clarifying legislation, SB 40, which further clarifies the parameters under which someone may be conserved. SB 40 has passed the Senate and was heard on July 2nd in the Assembly Judiciary Committee. This measure allows for a 28-day temporary conservatorship which, if confirmed, would end in 6 months as compared to one year under SB 1045. The petition window for a conservatorship is narrowed. The petition must confirm that adequate services are available. A court or jury must determine if the conditions for conservation are met, and regular reports must be submitted to the court which will determine if early termination of the conservatorship is warranted.

As this is a pilot project, this bill will repeal on January 1, 2024.

Erick Matos, Supervisor Barger's Health and Legislative Affairs Deputy, will provide the Committee with information on SB 1045.

Prepared by: 
Jan Cicco

Regional Homelessness Coordinator

Approved by: Marisa Creter
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – SB 1045

Attachment B – Article, Washington Post

**Attachment C – Public Information Release regarding City of San Francisco
Implementation**

Attachment D – ACLU Statement

Attachment E – SB 40



SB-1045 Conservatorship: serious mental illness and substance use disorders. (2017-2018)



Date Published: 09/27/2018 09:00 PM

Senate Bill No. 1045

CHAPTER 845

An act to add and repeal Article 7 (commencing with Section 5555) of Chapter 6.2 of, and to add and repeal Chapter 5 (commencing with Section 5450) of, Part 1 of Division 5 of the Welfare and Institutions Code, relating to conservatorship.

[Approved by Governor September 27, 2018. Filed with Secretary of State September 27, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1045, Wiener. Conservatorship: serious mental illness and substance use disorders.

(1) Existing law establishes a procedure for the appointment of a conservator for a person who is determined to be gravely disabled as a result of a mental health disorder or an impairment by chronic alcoholism, as specified, pursuant to a petition to the superior court by an officer conducting an investigation and concurring with a recommendation of conservatorship. Existing law also establishes a procedure for the appointment of other types of conservatorship or a guardianship as ordered by the probate court.

Existing law, the Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, until January 1, 2022, grants each county the authority to offer certain assisted outpatient treatment services for a person who meets specified criteria, including, among others, that the person is suffering from a mental illness, that the person has a history of lack of compliance with treatment for the person's mental illness, and that the person is in need of assisted outpatient treatment, as specified. Laura's Law authorizes designated persons to request the county behavioral health director to file a petition in the superior court for an order for assisted outpatient treatment.

This bill would establish a procedure, for the County of Los Angeles, the County of San Diego, and the City and County of San Francisco, if the board of supervisors of the respective county or city and county authorizes the application of these provisions subject to specified requirements, for the appointment of a conservator for a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, as specified, for the purpose of providing the least restrictive and most clinically appropriate alternative needed for the protection of the person. The bill would prohibit a conservatorship from being established under these provisions if a conservatorship or guardianship exists under the above-described provisions.

This bill would make the establishment of a conservatorship pursuant to these provisions subject to, among other things, a finding by the court that the behavioral health director of the county or the city and county has previously attempted by petition to obtain a court order authorizing assisted outpatient treatment pursuant to Laura's Law for the person for whom conservatorship is sought, that the petition was denied or the assisted outpatient treatment was insufficient to treat the person's mental illness, and that assisted outpatient treatment would be insufficient to treat the person in the instant matter in lieu of a conservatorship.

This bill would require a conservatorship initiated under these provisions to automatically terminate one year after the appointment of the conservator by the superior court, or shorter if ordered by the court, except as specified.

This bill would authorize the Judicial Council to adopt rules, forms, and standards necessary to implement these provisions.

(2) This bill would require the County of Los Angeles, the County of San Diego, and the City and County of San Francisco, subject to the county's or city and county's election to apply these provisions, to establish a working group, comprised of representatives of local agencies and disability rights advocacy groups, among others, to conduct an evaluation of the effectiveness of the implementation of the conservatorship provisions described above in addressing the needs of persons with serious mental illness and substance use disorders. The bill would require each working group to prepare and submit a preliminary report to the Legislature on its findings and recommendations no later than January 1, 2021, and a final report no later than January 1, 2023.

(3) This bill would repeal, on January 1, 2024, all of the provisions relating to the new conservatorship procedure and the working group, as described above in paragraphs (1) and (2).

(4) This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Los Angeles, the County of San Diego, and the City and County of San Francisco.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 5 (commencing with Section 5450) is added to Part 1 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 5. Housing Conservatorship for Persons with Serious Mental Illness and Substance Use Disorders

5450. (a) Until January 1, 2024, this chapter shall apply only to the County of Los Angeles, the County of San Diego, and the City and County of San Francisco if the board of supervisors of the respective county or city and county, by resolution or through the county budget process, authorizes the application of this chapter and makes a finding that no voluntary mental health program serving adults, no children's mental health program, and no services or supports provided in conservatorships established pursuant to Division 4 (commencing with Section 1400) of the Probate Code or conservatorships established pursuant to Chapter 3 (commencing with Section 5350), including availability of conservators, may be reduced as a result of the implementation of this chapter.

(b) (1) Before the county board of supervisors may authorize the application of this chapter, the county mental health department, the county welfare department, and, if one exists, the county department of housing and homeless services shall do both of the following:

(A) Develop a plan to implement this chapter in consultation with representatives of disability rights advocacy groups, a provider of permanent supportive housing services, the county health department, law enforcement, labor unions, and staff from hospitals located in the county or the city and county.

(B) Present before the county board of supervisors on the plan and available resources for the implementation of this chapter.

(2) In order to approve authorization of the application of this chapter, the county board of supervisors shall determine, after a public hearing, based on materials presented, that all of the following services are available in, at a minimum, sufficient quantity, resources, and funding levels to serve the identified population that the county board of supervisors intends to serve, within the county or city and county for utilization in connection with the application of this chapter:

(A) Supportive community housing that provides wraparound services, with adequate beds available.

(B) Public conservators trained on the specifics of how to assess and evaluate individuals for the new form of conservatorship described in this chapter.

(C) Outpatient mental health counseling.

(D) Coordination and access to medications.

(E) Psychiatric and psychological services.

(F) Substance use disorder services.

(G) Vocational rehabilitation.

(H) Veterans' services.

(I) Family support and consultation services.

(J) A service planning and delivery process that includes all of the following:

(i) Plans for services that contain evaluation strategies, which shall consider cultural, linguistic, gender, sexual orientation, age, and special needs of minorities and those based on any characteristic listed or defined in Section 11135 of the Government Code in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services as a result of having limited-English-speaking ability or cultural differences.

(ii) Provision for services to meet the needs of persons who are physically disabled.

(iii) Provision for services to meet the special needs of older adults.

(iv) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, if appropriate.

(v) Provision for services to be client-directed and to employ psychosocial rehabilitation and recovery principles.

(vi) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(vii) Provision for services reflecting special needs of women from diverse cultural and socioeconomic backgrounds.

(viii) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(ix) Provision for services reflecting special needs of lesbian, gay, bisexual, and transgender (LGBT) individuals.

(K) The individual personal services plan ensures that a person subject to conservatorship pursuant to this chapter receives age-appropriate, gender-appropriate, disability-appropriate, and culturally appropriate services, to the extent feasible and when appropriate, that are designed to enable those persons to do all of the following:

(i) Live in the most independent, least restrictive housing feasible in the local community, and, for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(ii) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(iii) Create and maintain a support system consisting of friends, family, and participation in community activities.

(iv) Access an appropriate level of academic education or vocational training.

(v) Obtain an adequate income.

(vi) Self-manage their illnesses and exert as much control as possible over both the day-to-day and long-term decisions that affect their lives.

(vii) Access necessary physical health benefits and care and maintain the best possible physical health.

(viii) Reduce or eliminate the distress caused by the symptoms of mental illness.

(3) The county or the city and county shall not seek to conserve any individual pursuant to this chapter unless there is funding and available resources to provide all of the services set forth in paragraph (2).

5451. In the County of Los Angeles, the County of San Diego, and the City and County of San Francisco, subject to Section 5450, a conservator of the person may be appointed for a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, as evidenced by frequent detention for evaluation and treatment pursuant to Section 5150. The procedure for establishing,

administering, and terminating a conservatorship under this chapter shall be the same as provided for in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

(a) The court may appoint the public conservator in the county of residence of the person to be conserved and the person to serve as conservator if the person requesting the appointment establishes, and the court makes an express finding, that it is necessary for the protection of the proposed conservatee and the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.

(b) (1) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue of whether the person meets the criteria for the appointment of a conservator of the person under this chapter. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5465, the demand shall constitute a waiver of that hearing.

(2) Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee.

(3) This right shall also apply in subsequent proceedings to reestablish a conservatorship.

(c) Conservatorship investigation shall be conducted pursuant to Chapter 3 (commencing with Section 5350) and shall not be subject to Section 1826 of, or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of, the Probate Code.

(d) Notice of proceedings under this chapter shall be given to a guardian or conservator of the person or estate of the proposed conservatee appointed under the Probate Code and as otherwise provided in Section 5350.2.

(e) As otherwise provided for in this chapter.

(f) A conservatorship pursuant to this chapter shall not be established if a conservatorship or guardianship exists under Division 4 (commencing with Section 1400) of the Probate Code or under Chapter 3 (commencing with Section 5350).

5452. For purposes of this chapter, the following definitions apply:

(a) "Frequent detention for evaluation and treatment" means eight or more detentions for evaluation and treatment in the preceding 12 months.

(b) "Evaluation" consists of multidisciplinary professional analyses of an individual's medical, psychological, educational, social, financial, and legal conditions as they may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing face-to-face, which includes telehealth, evaluation services or may be part-time employees or may be employed on a contractual basis.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the Medi-Cal program as set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under the federal Medicare Program as set forth in Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. This chapter does not prohibit an intensive treatment facility from also providing 72-hour evaluation and treatment.

5453. The purpose of conservatorship under this chapter is to provide the least restrictive and most clinically appropriate alternative needed for the protection of a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, as evidenced by frequent detention for evaluation and treatment pursuant to Section 5150. If the court determines that the person needs to be moved from the person's current residence, the placement shall be in supportive community housing that provides wraparound services, such as onsite physical and behavioral health services, unless the court, with good cause, determines that such a placement is not sufficient for the protection of that person.

5454. In the County of Los Angeles, the County of San Diego, and the City and County of San Francisco, subject to Section 5450, the board of supervisors of the respective county or city and county shall designate the agency or agencies to provide conservatorship investigation as set forth in this chapter, and those investigations shall

comply with the requirements of Section 5354. The governing board may designate that conservatorship services be provided by the public guardian or agency providing public guardian services.

5455. (a) (1) The county sheriff may recommend an evaluation for conservatorship to the officer providing conservatorship investigation in the county of residence of the person if the sheriff determines that a person detained in a jail is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, as evidenced by frequent detention for evaluation and treatment pursuant to Section 5150. The county sheriff may delegate this authority to make a determination and recommendation to the health care service providers in the county jail.

(2) The director of a county mental health department or a county department of public social services may recommend an evaluation for conservatorship to the officer providing conservatorship investigation in the county of residence of the person if the director determines that a person is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, as evidenced by frequent detention for evaluation and treatment pursuant to Section 5150.

(3) The professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment may recommend an evaluation for conservatorship to the officer providing conservatorship investigation in the county of residence of the person if the professional person in charge of the agency providing comprehensive evaluation or the facility providing intensive treatment determines that a person in the professional's care is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, as evidenced by frequent detention for evaluation and treatment pursuant to Section 5150.

(b) If the officer providing conservatorship investigation, upon conducting an evaluation for conservatorship, finds that the person meets the criteria for conservatorship and the conservatorship is the least restrictive alternative, the officer shall petition the superior court in the county of residence of the person to establish conservatorship.

5456. The establishment of a conservatorship pursuant to this chapter is subject to a finding by the court that the behavioral health director of the county or the city and county has previously attempted by petition to obtain a court order authorizing assisted outpatient treatment pursuant to Article 9 (commencing with Section 5345) of Chapter 2 for the person for whom conservatorship is sought, and that both of the following conditions exist:

(a) The petition was denied or the assisted outpatient treatment was insufficient to treat the person's mental illness.

(b) Assisted outpatient treatment would be insufficient to treat the person in the instant matter in lieu of a conservatorship.

5457. (a) The officer providing conservatorship investigation shall investigate all available alternatives to a conservatorship under this chapter, including a conservatorship under Division 4 (commencing with Section 1400) of the Probate Code or a conservatorship under Chapter 3 (commencing with Section 5350), and shall recommend conservatorship to the court only if no less restrictive alternatives exist and it appears that the person does not qualify for a conservatorship under Division 4 (commencing with Section 1400) of the Probate Code or a conservatorship under Chapter 3 (commencing with Section 5350). This officer shall render to the court a written report of investigation prior to the hearing. The report to the court shall be comprehensive and shall contain, in addition to the elements required under Section 5354, all relevant aspects of the person's medical, psychological, financial, family, vocational, and social condition, and information obtained from the person's family members, close friends, social worker, or principal therapist. The report shall also contain all available information concerning the person's real and personal property. The facilities providing medical treatment, or intensive treatment or comprehensive evaluation, the sheriff, and the director of the county mental health department or the county department of public social services shall disclose any records or information that may facilitate the investigation. If the officer providing conservatorship investigation recommends a conservatorship, the officer shall explain why all less restrictive alternatives are not sufficient, and if the officer recommends against a conservatorship, the officer shall set forth all alternatives available. When confidentiality and client privacy laws permit, a copy of the report shall be transmitted to the individual who originally recommended conservatorship, and the information shared shall be compliant with state and federal laws governing protected health information. The court shall receive the report in evidence and shall read and consider the contents of the report in rendering its judgment.

(b) The report of the officer providing conservatorship investigation shall contain the officer's recommendations concerning the powers to be granted to, and the duties to be imposed upon, the conservator, the legal disabilities to be imposed upon the conservatee, and the proper placement for the conservatee pursuant to Section 5460, and shall explain why each of these items is the least restrictive alternative. The report to the court shall also contain an agreement signed by the person or agency recommended to serve as conservator certifying that the person or agency is able and willing to serve as conservator.

5458. Except as otherwise provided in this chapter, the person recommended to serve as conservator shall promptly notify the officer providing conservatorship investigation whether the person recommended to serve as conservator will accept the position if appointed. If notified that the person or agency recommended will not accept the position if appointed, the officer providing conservatorship investigation shall promptly recommend another person to serve as conservator.

5459. (a) A person or agency shall not be designated as conservator whose interests, activities, obligations, or responsibilities are such as to compromise the person's or agency's ability to represent and safeguard the interests of the conservatee. The conservator has a fiduciary duty to protect and care for the conservatee.

(b) If a public guardian is appointed conservator, the public guardian's official bond and oath as public guardian are in lieu of the conservator's bond and oath on the grant of letters of conservatorship. A bond shall not be required of any other public officer or employee appointed to serve as conservator.

5460. When ordered by the court after the hearing required by this chapter, a conservator appointed pursuant to this chapter shall provide the least restrictive and most clinically appropriate placement for the conservatee, which shall be the conservatee's residence or a community-based residential care setting in supportive community housing that provides wraparound services, such as onsite physical and behavioral health services, unless the court for good cause orders otherwise.

5461. (a) At any time, a conservatee or any person on the conservatee's behalf with the consent of the conservatee or the conservatee's counsel, may petition the court for a hearing to contest the powers granted to the conservator under Section 5460.

(b) A request for hearing pursuant to this section shall not affect the right of a conservatee to petition the court for a rehearing as to the conservatee's status as a conservatee pursuant to Section 5464. A hearing pursuant to this section shall not include trial by jury.

5462. (a) Conservatorship initiated pursuant to this chapter shall automatically terminate one year after the appointment of the conservator by the superior court, or shorter if ordered by the court. If upon the termination of an initial or a succeeding period of conservatorship the conservator determines that conservatorship is still required, the conservator may petition the superior court for the conservator's reappointment as conservator for a succeeding one-year period or any shorter period.

(b) Any program in which a conservatee is placed shall release the conservatee at the conservatee's request when the conservatorship terminates. A petition for reappointment filed by the conservator or a petition for appointment filed by a public guardian or public conservator shall be transmitted to the program at least 30 days before the automatic termination date.

5463. (a) The clerk of the superior court shall notify each conservator, the conservatee, the person in charge of the program in which the conservatee receives services, and the conservatee's attorney, at least 60 days before the termination of the one-year or shorter period. Notification shall be given in person or by first-class mail.

(b) If the conservator does not petition to reestablish conservatorship at or before the termination of the one-year or shorter period, the court shall issue a decree terminating conservatorship. The decree shall be sent to the conservator and the conservatee by first-class mail.

(c) The Judicial Council may adopt rules, forms, and standards necessary to implement this chapter.

5464. (a) At any time, the conservatee may petition the superior court for a rehearing as to the conservatee's status as a conservatee.

(b) If a conservatee appeals a court's decision to establish a conservatorship, the conservatorship shall continue unless execution of judgment is stayed by the superior court or the appellate court.

National

San Francisco plans to force mentally ill addicts into a system critics call ripe for abuses

By Orion Donovan-Smith

June 7

Facing a vexing hybrid problem of homelessness, substance abuse and mental illness, San Francisco officials passed a controversial bill Tuesday that expands the city’s ability to force mentally ill drug users into treatment.

Although the pilot program may affect as few as five people a year, it has pitted elected officials against critics who say the move represents a grave threat to civil liberties.

Both sides agree that the city needs to do more to stem a complex crisis fueled by an affordable housing shortage, a drug epidemic and limited mental health resources. All this in one of the [most expensive cities](#) in the country, where the homeless population has [jumped 17 percent](#) since 2017.

“It’s hard, it’s really an issue of freedom and personal agency,” said Lena Miller, program director of the Bayshore Navigation Center, a shelter in the city. “On the other hand, what do you do when a person is having a break with reality and can’t really take care of themselves?”

ADVERTISING



The city’s Board of Supervisors voted 10 to 1 to implement S.B. 1045, a bill passed by state lawmakers last year that expands the use of a mechanism known as conservatorship, which gives a court-appointed guardian the

authority to make decisions for a person judged “gravely disabled.”

Conservatorships have been used in California since 1972 to involuntarily treat people grappling with mental illness and alcohol abuse. The new law lets courts “conserve” those who use other substances or have entered psychiatric emergency services at least eight times in a year.

Today, roughly half of psychiatric emergency cases are related to methamphetamine use, according to Rachael Kagan, communications director for the San Francisco Department of Public Health.

“We see a need to update our conservatorship program in San Francisco because the current one does not contemplate the needs of people with substance abuse disorder,” Kagan said. “The clinicians who serve these people now are really in need of this tool.”

But opponents worry that it will lead to prolonged involuntary confinement. While eight of these occurrences — known as a 5150 hold — will not automatically lead to a conservatorship, a person may be held for up to 72 hours and a medical professional can request additional holds.

“What they’re not taking into account is the huge incentive police will have to 5150 people,” said Jennifer Friedenbach, executive director of the Coalition on Homelessness. She argued that even if only a handful of people ultimately qualify for a conservatorship, the new law will allow for the de facto detention of homeless and mentally ill people.

In a [2018 statement](#), the ACLU’s disability rights program director, Susan Mizner, called conservatorship “the biggest deprivation of civil rights aside from the death penalty.”

Members of the all-Democratic board’s progressive faction expressed concerns, but ultimately all but one supervisor supported the legislation after adding amendments to narrow its scope — and after the bill’s sponsors threatened to put it on the ballot if it didn’t pass.

Although the last-minute changes mean that even fewer people will likely be conserved — a key amendment requires that they first go into outpatient treatment — the state lawmaker who wrote S.B. 1045 has already introduced a new bill in Sacramento that could land another 50 city residents in conservatorship each year, according to Department of Public Health estimates.

State Sen. Scott Wiener (D), a former San Francisco supervisor, has championed the issue at the state level, with the local support of San Francisco Mayor London Breed and Board Supervisor Rafael Mandelman. In a [statement](#) after the bill passed, the mayor hailed the move as an important part of her plan to address mental health and substance abuse problems.

“This is an important step that will help people [on] our streets get the treatment they need rather than continuing to cycle in and out of the emergency room, and often the criminal justice system,” she wrote. “Conservatorship will allow us to finally break this cycle by providing sustained care.”

Angelica Almeida, who directs the Department of Public Health's assisted outpatient treatment program and will run the new program under S.B. 1045, emphasized the legal protections conserved people have. Although they can be held in a locked room and lose control of their property, conserved people can't be forced to take medication and are represented by a public defender. Almeida's office has a responsibility to ensure they are held "in the least restrictive setting" possible.

She echoed that the expanded use of conservatorship can be an important tool to stop the cycle of people being held involuntarily during drug-related episodes, being released after sobering up and using drugs again.

"What we know as providers is that as this cycle continues, a person deteriorates," she said. The new law, Almeida said, allows her and her colleagues to provide longer-term support to patients "on their journey to recovery and wellness."

Yet those with a ground-level view of San Francisco's overlapping crises of mental health, substance abuse and homelessness have no illusions that there's an easy fix. Kenneth Kim, director of behavioral health services at GLIDE, a nonprofit in the city's Tenderloin neighborhood, said it will take a comprehensive and well-funded effort to make a significant dent in the problem.

"This use is really out of desperation, which is unfortunate," Kim said. "This could mean institutionalizing people where that isn't appropriate."

Miller, who also serves as chief executive of Urban Alchemy, a nonprofit organization that employs formerly incarcerated people, said the mix of addiction, mental illness and extreme poverty or homelessness is a problem that society hasn't fully grasped yet. She compares S.B. 1045 to recycling a few plastic bottles to avert climate change.

"We've never seen this before, we've never had to deal with this before, and we're not dealing with it now."


Read more:

[Columbine High could be torn down. The district blames 'morbid fascination' with shooting.](#)

[Hannity says calls to jail Trump make U.S. 'a banana republic.' Let's review his tapes on Hillary Clinton.](#)

['So much mystery': After a man died in prison, his body was returned without vital organs.](#)

Orion Donovan-Smith

Orion Donovan-Smith is a graduate student at American University and contributor to The Washington Post. Before turning to journalism, he worked on international development programs in Central Africa. Follow 

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5465. A hearing shall be held on all petitions under this chapter within 30 days of the date of the petition. If the conservatee or proposed conservatee is not represented by counsel, the court shall appoint the public defender for the conservatee or proposed conservatee within five days after the date of the petition at the county's or city and county's expense. A hearing or trial shall not occur under this chapter unless the conservatee or proposed conservatee is represented by counsel.

5466. This chapter shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Article 7 (commencing with Section 5555) is added to Chapter 6.2 of Part 1 of Division 5 of the Welfare and Institutions Code, to read:

Article 7. Housing Conservatorship Working Group

5555. (a) The County of Los Angeles, the County of San Diego, and the City and County of San Francisco, subject to Section 5450, shall establish a working group to conduct an evaluation of the effectiveness of the implementation of Chapter 5 (commencing with Section 5450) in addressing the needs of persons with serious mental illness and substance use disorders in the county or the city and county. The evaluation shall include an assessment of the number and status of persons who have been conserved under that chapter, the effectiveness of these conservatorships in addressing the short- and long-term needs of those persons, and the impact of conservatorships established pursuant to that chapter on existing conservatorships established pursuant to Division 4 (commencing with Section 1400) of the Probate Code or Chapter 3 (commencing with Section 5350) and on mental health programs provided by the county or the city and county. The working group shall be comprised of representatives of disability rights advocacy groups, the county mental health department, the county health department, the county social services department, law enforcement, labor unions, staff from hospitals located in the county or the city and county, and, if one exists, the county department of housing and homeless services.

(b) Each working group shall prepare and submit a preliminary report and a final report to the Legislature on its findings and recommendations regarding the implementation of Chapter 5 (commencing with Section 5450). The preliminary report shall be submitted to the Legislature no later than January 1, 2021, and the final report shall be submitted to the Legislature no later than January 1, 2023, in compliance with Section 9795 of the Government Code.

5556. This article shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the County of Los Angeles, the County of San Diego, and the City and County of San Francisco.

Visit our [new website SF.gov](#)

Attachment C

Office of the Mayor

News Releases

The latest news and announcements from Mayor London N. Breed

Board of Supervisors Approves Conservatorship Legislation Introduced by Mayor London Breed and Supervisor Rafael Mandelman

Posted Date: Tuesday, June 04, 2019

As part of the City's efforts to increase resources and treatment beds for individuals suffering from severe mental health and substance use issues, the legislation provides the City with another tool to help those most in need

San Francisco, CA – The Board of Supervisors today passed legislation introduced by Mayor London Breed and Supervisor Rafael Mandelman to strengthen the City's conservatorship laws in order to provide care and treatment for San Franciscans most in need, who currently suffer from severe mental health and substance use disorders.

The legislation is part of Mayor Breed's efforts to improve the City's response to those in need of mental health and substance use treatment. The Mayor's efforts include funding 100 new treatment beds last year as well as an additional 100 new beds as part of her recently announced Fiscal Year 2019-2020 and 2020-2021 budget proposal.

"This is an important step that will help people our streets get the treatment they need rather than continuing to cycle in and out of the emergency room, and often the criminal justice system," said Mayor Breed. "Conservatorship will allow us to finally break this cycle by providing sustained care, which is why we are also expanding our treatment beds and other resources to address the issues that these individuals face. Allowing people to continue to suffer on our streets is not acceptable or humane and I am glad the Board of Supervisors supported our approach to finally make a change. I want to thank Supervisor Mandelman for his partnership on this legislation and Senator Wiener for his leadership at the state level."

"San Franciscans have made it clear that they are unwilling to continue to allow severely mentally ill and addicted people to languish on our streets. SB 1045 is a small but important step to bring the sickest, most vulnerable, and hardest-to-reach individuals into care," said Supervisor Mandelman. "Perhaps even more importantly, SB 1045 has spurred a long overdue conversation about radically transforming our response to untreated mental illness and drug addiction. I'm grateful to Senator Wiener and Mayor Breed for their unflagging commitment to advancing that conversation, and I want to thank my colleagues for their support today."

"Too many people are deteriorating and dying on San Francisco's streets, and we have a moral responsibility to help them," said Senator Scott Wiener. "It's neither progressive nor compassionate to stand by while people die. We need to offer voluntary services to those in need, but for people incapable of accepting services, we need to consider helping them via conservatorship. The purpose of a conservatorship is help people stabilize and get healthy, ultimately transitioning to permanent housing. But until they

get there, we need to take steps to help them survive. I want to thank the San Francisco Board of Supervisors for taking this important step, and I commend Supervisor Mandelman and Mayor Breed for their extraordinary leadership.”

Today, individuals who are gravely disabled by both a serious mental illness and a substance use disorder fall through the cracks of San Francisco’s existing systems. They often have multiple visits to psychiatric emergency services when they are intoxicated, but once the drugs clear their system and they improve, they are ineligible for acute psychiatric care, or conservatorship. If they do not accept voluntary services, the cycle often begins again.

This legislation addresses this population and provides a path for the City to petition a court for a short-term conservatorship in order to provide them the treatment they need and deserve. In order to qualify for conservatorship, an individual must be dual-diagnosed with a serious mental illness and with a substance use disorder, and have been brought to the psychiatric emergency room at least eight times in a 12-month period under an involuntary “5150” emergency hold. A 5150 hold is issued to individuals who present an immediate danger to themselves or others, or are gravely disabled and unable to provide for their basic needs. At the end of the conservatorship process, these individuals are guaranteed permanent housing.

“With this compassionate step forward, more people in our city will benefit from care for persistent substance use and mental health issues,” said Dr. Grant Colfax, Director of Health. “The SB 1045 conservatorship will help people who are suffering to interrupt the cycle of crisis by remaining in care, filling a crucial gap in our system that has allowed them to continually slip through the cracks. We know that recovery and wellness are possible, and we are gratified to have an additional tool to help some of our most vulnerable residents.”

After two committee hearings for the proposal in May, Supervisor Mandelman and Supervisor Yee worked to identify a series of amendments that clarified the implementation plan for the program but did not change the eligible population. Specifically, the amendments clarify the requirements to repeatedly offer voluntary services, including treatment, prior to an individual being eligible for conservatorship. Offering voluntary services was always part of the implementation plan, but these amendments clarify these requirements.

The legislation is available to the City under Senate Bill 1045, which was introduced by Senator Scott Wiener and signed into law in September 2018. Senator Wiener has introduced SB 40, which has passed the Senate by a 36-0 vote, to clarify the parameters under which someone may be conserved. The San Francisco Department of Public Health estimates that if SB 40 is signed into law, the City legislation would apply to approximately 50 of the most acute individuals in San Francisco per year.

###

Voluntary Services First

A coalition to oppose the implementation of SB1045 in San Francisco

As a coalition of community groups who work with people with disabilities, seniors, and homeless people, we strongly oppose implementation of SB 1045 in San Francisco. We agree that we have a crisis of homeless people living and dying on our streets. However, an expansion of involuntary conservatorship is the wrong approach and will do nothing to address the underlying drivers of psychiatric disabilities, substance abuse, and homelessness.

Conservatorship is a serious matter. It takes away every single one of a person's civil liberties-- their ability to make decisions about what happens to their body, their pet, where they live, what they eat, how they spend their time and their money. Our government should not ignore the long and shameful history of institutionalization, involuntary sterilization, and other forced treatment of people with disabilities. As Susan Mizner, Disability Rights Program Director of the National ACLU stated, "Conservatorship is the biggest deprivation of civil rights aside from the death penalty."

Under the Lanterman-Petris-Short Act, carefully constructed to balance safety and personal liberties, individuals can be conserved if they are harmful to themselves or others or cannot care for themselves due to their mental illness. This new law adds addiction to mental illness, and focuses instead on whether someone has been detained more than 8 times. It therefore moves the reason for the conservatorship away from medical and safety necessity to police intervention. This law would give the police a great incentive to repeatedly detain people who are generating complaints with 5150 holds. A punitive approach to mental health is both inhumane and ineffective.

SB 1045 has become a political strategy to address homeless people with mental health disabilities. This strategy relies on the false narrative that people choose not to get services, when in reality services are not available. There are 1,060 individuals on the single adult Shelter Reservation Waitlist and 8,000 households on the waitlist for public housing. When this data was last tracked, there were 500 people waiting to get methadone and substance use residential treatment.

San Francisco's performance audit of Behavioral Health Services (April 2018) reads: "Clients accessing psychiatric emergency services often have dual mental health and substance use disorders and experience homelessness. Linking these clients to services on discharge is important, because without service linkage, these clients are at risk of not only decompensating mentally, but of also resorting to alcohol and substance abuse after being discharged." And yet, nearly 40% of people discharged from psychiatric emergency services in 2017 were not offered any services. The conservatorship process is failing us now because there are not adequate services or placements for the individual, and this new law does not change that. It just makes it easier to churn people through the system.

Implementation would be a much greater challenge than has been recognized by government leaders. Conservatorship is a serious commitment and responsibility, making government liable for providing extensive care for conservatees -- with the same level of resources that is currently not adequate to meet the needs of the community. Where is the housing going to come from when

someone is conserved from the street? Where are the services coming from? Who will not get that housing or services because the conserved person does?

Implementation of SB 1045 encourages police action and criminalization of people who are homeless and mentally ill. To be eligible, people will need to be detained through a 5150 action eight times, which gives police an incentive to use 5150s on people with mental illness and substance abuse. In San Francisco, almost 60% of people shot and killed by police have mental health disabilities. In addition, being detained and then conserved could turn into a homeless person's only option for accessing housing and services.

Before we take away civil liberties--in a city that prides itself on being a pioneer on civil rights--San Francisco needs to provide housing and voluntary mental health and substance abuse services. Proposition C, on November's ballot, will provide much needed housing and services. Real solutions are available before we turn to involuntary conservatorship.

Sponsors:

California Alliance of Disability Advocates
California Alliance of Retired Americans (CARA)
California Advocates for Nursing Home Reform (CANHR)
Coalition on Homelessness
Critical Resistance
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For more information, please contact Jessica Lehman at Senior and Disability Action: 415-546-1333, jessica@sdaction.org


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SB-40 Conservatorship: serious mental illness and substance use disorders. (2019-2020)

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AMENDED IN SENATE APRIL 25, 2019

AMENDED IN SENATE APRIL 04, 2019

AMENDED IN SENATE MARCH 04, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

No. 40

Introduced by ~~Senator~~ **Senators Wiener and Stern**
(**Coauthors: Senators Jones and Moorlach**)

December 03, 2018

An act to amend Sections 5451, 5452, 5453, 5456, 5462, and 5463 of, and to add Section 5465.5 to, the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as amended, Wiener. Conservatorship: serious mental illness and substance use disorders.

Existing law establishes a procedure, until January 1, 2024, for the County of Los Angeles, the County of San Diego, and the City and County of San Francisco, if the board of supervisors authorizes the appointment of a conservator for a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, as evidenced by frequent detention for evaluation and treatment, which is 8 or more detentions for evaluation and treatment in the preceding 12 months. Existing law automatically terminates a conservatorship initiated pursuant to these provisions one year after the appointment of the conservator unless the court specifies a shorter period. Existing law authorizes the person for whom conservatorship is sought to demand a court or jury trial on the issue of whether the person meets the criteria for the appointment of a conservator pursuant to these provisions. Existing law authorizes the Judicial Council to adopt rules, forms, and standards necessary to implement these provisions.

This bill would additionally authorize the court to establish a temporary conservatorship for a period of 28 days or less if the court is satisfied of the necessity, as specified. The bill would authorize a conservator of the person to be initially appointed pursuant to those provisions only if the person is presently incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder and the person has been detained 8 times for evaluation and treatment in a 12-month period pursuant to existing law authorizing the detention of mentally disordered persons who are a danger to self or others or gravely disabled.

Page 24

without reference to evidence of frequent detention for evaluation and treatment. The bill would also change the definition of "frequent detention for evaluation and treatment" for purposes of these conservatorship provisions to mean 8 or more detentions in a 12-month period. The bill would require that a petition seeking to establish the above-described conservatorship be filed with the court no later than 28 days following the 8th detention in a 12-month period, and would establish the procedures for filing the petition, including confirming that there are adequate resources to appropriately serve the person in the least restrictive manner and designating the public conservator to serve as the potential conservator.

This bill would require a court or jury trial making a determination regarding the issue of whether a person meets the criteria for appointment of a conservator to make that determination beyond a reasonable doubt. The bill would provide that the conservatorship would automatically terminate 6 months, rather than one year, after the appointment of the conservator by the superior court, or a shorter period if ordered by the court. The bill would require the conservator to file a report with the court every 60 days regarding the conservatee's progress and engagement with treatment and, if the court is not satisfied that the conservatorship continues to be justified, the bill would ~~authorize~~ *require* the court to terminate the conservatorship or reduce the length of the conservatorship.

Existing law makes the establishment of a conservatorship pursuant to these provisions subject to, among other things, a finding by the court that the behavioral health director of the county or the city and county has previously attempted by petition to obtain a court order authorizing assisted outpatient treatment pursuant to the Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, for the person for whom conservatorship is sought, that the petition was denied or the assisted outpatient treatment was insufficient to treat the person's mental illness, and that assisted outpatient treatment would be insufficient to treat the person in the instant matter in lieu of a conservatorship.

This bill would instead make the establishment of the above-described conservatorship subject to a finding by the court that the ~~behavioral health director~~ *director*, or the director's ~~designee~~ *designee, has fulfilled specified requirements and* (1) has previously attempted to obtain the above-described court order and that the petition was denied or the assisted outpatient treatment was insufficient to treat the person's mental illness, or (2) reasonably determines that the person, as a matter of law, does not meet the criteria described for assisted outpatient treatment or ~~finds by clear and convincing evidence~~ *determines* that assisted outpatient treatment would be insufficient to treat the person in lieu of a ~~conservatorship~~ *conservatorship, as specified*.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5451 of the Welfare and Institutions Code is amended to read:

5451. In the County of Los Angeles, the County of San Diego, and the City and County of San Francisco, subject to Section 5450, a conservator of the person may be appointed for a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder. The procedure for establishing, administering, and terminating a conservatorship under this chapter shall be the same as provided for in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

(a) (1) The court may appoint the public conservator in the county of residence of the person to be conserved and the person to serve as conservator if the person requesting the appointment establishes, and the court makes an express finding, that it is necessary for the protection of the proposed conservatee and the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.

(2) (A) A conservator of the person may be appointed pursuant to this chapter only if the person is presently incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder.

(B) For an initial appointment of a conservator, a person meets the standard in subparagraph (A) only if the person has been detained eight times for evaluation and treatment pursuant to Section 5150 in a 12-month period.

(C) To reestablish a conservatorship, the person meets the standard in subparagraph (A) only if the person's condition at the time of the petition to reestablish the conservatorship shows that the person continues to meet

the standard in subparagraph (A) based on the current behavior and condition of the person, independent of the person's history of detentions. However, other relevant historical course evidence may be taken into account.

(D) In any challenge to an existing conservatorship, the person meets the standard in subparagraph (A) only if the person's condition at the time of the challenge to the conservatorship shows that the person continues to meet the standard in subparagraph (A) based on the current behavior and condition of the person, independent of the person's history of detentions. However, other relevant historical course evidence may be taken into account.

(b) (1) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue of whether the person is shown to be, beyond a reasonable doubt, incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5465, the demand shall constitute a waiver of that hearing.

(2) Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee.

(3) This right shall also apply in subsequent proceedings to reestablish a conservatorship.

(c) Conservatorship investigation shall be conducted pursuant to Chapter 3 (commencing with Section 5350) and shall not be subject to Section 1826 of, or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of, the Probate Code.

(d) Notice of proceedings under this chapter shall be given to a guardian or conservator of the person or estate of the proposed conservatee appointed under the Probate Code and as otherwise provided in Section 5350.2.

(e) As otherwise provided for in this chapter.

(f) A conservatorship pursuant to this chapter shall not be established if a conservatorship or guardianship exists under Division 4 (commencing with Section 1400) of the Probate Code or under Chapter 3 (commencing with Section 5350).

(g) A petition seeking to establish a conservatorship pursuant to this chapter shall be filed with the court no later than 28 days following the eighth detention for evaluation and treatment pursuant to Section 5150 in a 12-month period, provided that the county health director, or the county health director's designee, has done all of the following:

(1) Before the eighth detention of the person in the 12-month period, all of the following:

(A) Made a finding pursuant to Section 5456.

(B) Confirmed that there are adequate resources to appropriately serve the person in the least restrictive manner.

(C) Designated the public conservator to serve as the potential conservator, and instructed that person to begin preparing for the investigation required pursuant to this chapter.

(2) On the seventh detention of the person in the 12-month period, provided the person with a written notice containing detailed information regarding the possibility that the person may be conserved pursuant to this chapter if they are detained once more in the 12-month period.

(3) Before the seventh detention of the person in the 12-month period, provided the person with the opportunity to engage in voluntary treatment *appropriate* for *their* mental illness and substance use disorders. *This opportunity shall be provided at the earliest time possible to prevent the worsening of the person's condition, and there shall be documented attempts to elicit the cooperation of the person and that these attempts have not been successful.*

(h) For the 28 days following the eighth detention, the county may establish a temporary conservatorship pursuant to Section 5465.5.

SEC. 2. Section 5452 of the Welfare and Institutions Code is amended to read:

5452. For purposes of this chapter, the following definitions apply:

(a) "Frequent detention for evaluation and treatment" means eight or more detentions for evaluation and treatment in a 12-month period.

(b) "Evaluation" consists of multidisciplinary professional analyses of an individual's medical, psychological, educational, social, financial, and legal conditions as they may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing face-to-face, which includes telehealth, evaluation services or may be part-time employees or may be employed on a contractual basis.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the Medi-Cal program as set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under the federal Medicare Program as set forth in Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. This chapter does not prohibit an intensive treatment facility from also providing 72-hour evaluation and treatment.

SEC. 3. Section 5453 of the Welfare and Institutions Code is amended to read:

5453. The purpose of conservatorship under this chapter is to provide the least restrictive and most clinically appropriate alternative needed for the protection of a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder. If the court determines that the person needs to be moved from the person's current residence, the placement shall be in supportive community housing that provides wraparound services, such as onsite physical and behavioral health services, unless the court, with good cause, determines that such a placement is not sufficient for the protection of that person.

SEC. 4. Section 5456 of the Welfare and Institutions Code is amended to read:

5456. (a) The establishment of a conservatorship pursuant to this chapter is subject to a finding by the court that the ~~behavioral~~ health director of the county or the city and county, or the director's designee, has ~~met~~ fulfilled all of the requirements specified in Section 5451 and that either of the following ~~conditions:~~ conditions has been met:

(1) The behavioral health director, or the director's designee, previously attempted by petition to obtain a court order authorizing assisted outpatient treatment pursuant to Article 9 (commencing with Section 5345) of Chapter 2 for the person for whom conservatorship is sought, and that the petition was denied or the assisted outpatient treatment was insufficient to treat the person's mental illness.

(2) The behavioral health director, or the director's designee, reasonably determines that the person, as a matter of law, does not meet the criteria described for assisted outpatient treatment pursuant to Article 9 (commencing with Section 5345) of Chapter 2, or ~~finds by clear and convincing evidence~~ determines that assisted outpatient treatment would be insufficient to treat the person in the instant matter in lieu of a conservatorship. *The behavioral health director, or the director's designee, shall state specific facts to support the determination. The court shall make a finding by clear and convincing evidence as to whether this condition is met.*

(b) The basis for the findings described in subdivision (a) shall be documented and included with the petition for a conservatorship.

SEC. 5. Section 5462 of the Welfare and Institutions Code is amended to read:

5462. (a) Except as provided in subdivision (c), a conservatorship initiated pursuant to this chapter shall automatically terminate six months after the appointment of the conservator by the superior court, or after a shorter period if ordered by the court. If upon the termination of an initial or a succeeding period of conservatorship the conservator determines that conservatorship is still required, the conservator may petition the superior court for the conservator's reappointment as conservator for a succeeding six-month period or any shorter period.

(b) Any program in which a conservatee is placed shall release the conservatee at the conservatee's request when the conservatorship terminates. A petition for reappointment filed by the conservator or a petition for

appointment filed by a public guardian or public conservator shall be transmitted to the program at least 30 days before the automatic termination date.

(c) Every 60 days, a conservator shall file a report with the court regarding the conservatee's progress and engagement with treatment.

(1) The report shall set forth the reasons demonstrating the following:

(A) Continuing the conservatorship.

(B) The treatment plan for the following 60 days.

(C) That the treatment plan is the least restrictive alternative.

(2) If the court is not satisfied that the conservatorship continues to be justified, the court ~~may~~ *shall* terminate the conservatorship or reduce the length of the conservatorship.

SEC. 6. Section 5463 of the Welfare and Institutions Code is amended to read:

5463. (a) The clerk of the superior court shall notify each conservator, the conservatee, the person in charge of the program in which the conservatee receives services, and the conservatee's attorney, at least 60 days before the termination of the six-month or shorter period. Notification shall be given in person or by first-class mail.

(b) If the conservator does not petition to reestablish conservatorship at or before the termination of the six-month or shorter period, the court shall issue a decree terminating conservatorship. The decree shall be sent to the conservator and the conservatee by first-class mail.

(c) The Judicial Council may adopt rules, forms, and standards necessary to implement this chapter.

SEC. 7. Section 5465.5 is added to the Welfare and Institutions Code, to read:

5465.5. (a) The court may establish a temporary conservatorship for a period not to exceed 28 days and appoint a temporary conservator on the basis of the comprehensive report of the officer providing conservatorship investigation filed pursuant to Section 5457, or on the basis of an affidavit of the professional person who recommended conservatorship stating the reasons for that person's recommendation, if the court is satisfied that the comprehensive report or affidavit shows the necessity for a temporary conservatorship.

(b) Except as provided in this section, all temporary conservatorships shall expire automatically at the conclusion of 28 days, unless prior to that date the court conducts a hearing on the issue of whether the proposed conservatee is incapable of caring for the proposed conservatee's own health and well-being due to a serious mental illness and substance use disorder.

(c) If the proposed conservatee demands a court or jury trial on the issue of whether the proposed conservatee is incapable of caring for their own health and well-being due to a serious mental illness and substance use disorder, the court may extend the temporary conservatorship until the date of the disposition of the issue by the court or jury trial. However, the extension shall not exceed a period of six months.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to effectively implement Senate Bill 1045 of the 2017–18 Regular Session (Chapter 845 of the Statutes of 2018), which established a procedure, in the County of Los Angeles, the County of San Diego, and the City and County of San Francisco, for the appointment of a conservator for a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder, it is necessary that this act take effect immediately.

REPORT

DATE: July 3, 2019

TO: SGVCOG Homelessness Committee

FROM: Marisa Creter, Executive Director

RE: **VETERAN HOMELESSNESS AND SOLUTIONS**

RECOMMENDED ACTION

For information and discussion.

BACKGROUND

As soldiers began returning from the Middle East conflicts, the Pentagon estimated that 20% of our Veterans would be homeless upon their return. According to the Los Angeles County 2019 Point-in-Time Homeless Data, 259 men and women without housing in the San Gabriel Valley previously served in the United States military. This is a 12% increase from 2018. Only 13 are in shelter, while the other 246 (95%) are unsheltered. One hundred and seventeen of these men and women are considered chronically homeless; that is, they have been 1) homeless for more than 12 consecutive months or 4 times in the past 3 years and 2) they have a disabling condition. The 3 organizations below have implemented programs to reduce veteran homelessness in the San Gabriel Valley.


The Vet Hunters Project (V.H.P.) is a grass roots movement that was started by one soldier who vowed to honor his fallen comrades by serving the living and leaving no veteran behind. VHP initiated “search and rescue” missions on the streets to identify homeless veterans in need of housing and assistance, a concept they called ‘vet hunting.’. During V.H.P’s first year of service, hundreds of veterans were assisted all over the United States. V.P.H. is committed to increasing its outreach until the homeless epidemic is ultimately ended. Joe Leal is an Iraq Combat Veteran and founder of the V.H.P., and he dedicates his life to serve “All who have served” and their families.

West Covina Rotary’s “Field of Valor” program was launched in 2012. In collaboration with the Veterans Administration (VA) and local law enforcement, the Program placed 4 homeless Veterans living in tents in Azusa Canyon into housing. They remain in housing today. In addition, the Program has helped countless Veterans stay in their homes by paying rent, utilities, and various other bills on their behalf. Linda Logan represents the West Covina Rotary’s Field of Valor program.

The VA Greater Los Angeles Healthcare System Community Care Outreach section responds to calls for assistance for homeless veterans in the San Gabriel Valley. . Community Care streamlines the care provided to homeless Veterans by providing same-day access to housing, primary care, mental health, and substance use treatment through trans-disciplinary care teams and enhanced

housing first teams. The program links homeless veterans to Department of Housing and Urban Development - VA Supportive Housing (HUD-VASH), Grant Per Diem, the Homeless Veteran Supportive Employment Program, Outreach, and Community Residential Care. Dominic Lopez, is a Community Care Outreach representative with the VA Great Los Angeles Healthcare System. Dominic's outreach region is the San Gabriel Valley.

Ms. Logan and Messrs. Leal and Lopez will provide the Committee with information on veteran homelessness and resources for veterans in need of housing.

Prepared by: 
Jan Cicco
Regional Homelessness Coordinator

Approved by: 
Marisa Creter
Executive Director

REPORT


DATE: July 3, 2019
TO: SGVCOG Homelessness Committee
FROM: Marisa Creter, Executive Director
RE: **SB 1275 (Santiago) Mental Health Services: County Pilot Program**

RECOMMENDED ACTION

Discuss and provide direction.

BACKGROUND

This report will be provided under separate cover.

Prepared by: 
Jan Cicco
Regional Homelessness Coordinator

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – SB 1275 (Santiago) Bill Text

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-1275 Mental health services: county pilot program.** (2019-2020)**SECTION 1.** *Section 5688.7 is added to the Welfare and Institutions Code, to read:*

5688.7. (a) *The State Department of Health Care Services shall establish a three-year pilot project to include the County of Los Angeles and up to nine additional counties. The purpose of the pilot project shall be for each participating county to establish an outreach team to provide outreach services to individuals with a history of mental illness or substance use disorders who are unable to provide for urgently needed medical care and who are homeless or at risk of experiencing homelessness. An outreach team shall facilitate early intervention and treatment for these individuals in the least restrictive environment and shall provide intensive outreach, case management, and linkage to services, including housing and treatment services. All persons staffing outreach teams shall be county employees.*

(b) *The department shall select from applicants a representative sampling of counties to include, but not be limited to, rural, urban, northern, central, and southern counties. The department shall consult and collaborate with, at a minimum, the County Behavioral Health Directors Association of California to establish the criteria for selection in the pilot project, the outcome measurements of the pilot project, and the reporting criteria.*

(c) *The department shall, within 18 months of the operative date of this section and in each subsequent year for the duration of the pilot project, report to the Legislature on the status of the pilot project and submit a final report to the Legislature at the conclusion of the three-year pilot project. A report submitted pursuant to this section shall be submitted in accordance with Section 9795 of the Government Code.*

(d) *This section shall only become operative upon appropriation by the Legislature for the specific implementation and administration of this section.*

REPORT

DATE: July 3, 2019
TO: SGVCOG Homelessness Committee
FROM: Marisa Creter, Executive Director
RE: **RHTF WORKING GROUP**

RECOMMENDED ACTION

For information only.


BACKGROUND

At the March 2019 meeting of the Homelessness Committee, Chair Shevlin called for volunteers to form a working group to explore the next steps for forming a Regional Housing Trust fund. Members Lyons and Huang volunteered.

The Ad Hoc RHTF Working Group convened on June 20th, 2019, and received information from the Heather Stratman, Principal Strategic Advisors about the process of establishing a Regional Housing Trust Fund

Over the next several meetings, the Ad Hoc RHTF Working Group will continue to discuss next steps and begin to establish goals and objectives for a San Gabriel Valley Regional Housing Trust Fund The working group is growing with representatives from a diversity of sectors.

The next meeting of the Ad Hoc RHTF Working Group will be held on Thursday, July 11th, at Senator Rubio's Office in West Covina. We will receive information from Dan Kiff and develop a timeline and key objectives. Dan Kiff, City Manager of Huntington Beach and Chair of the Orange County Housing Finance Trust, will provide information, insights, and lessons learned from the trenches.

Prepared by: 
Jan Cicco
Regional Homelessness Coordinator

Approved by: 
Marisa Creter
Executive Director