

**AB-1340 Mental health services. (2021-2022)**

SHARE THIS:



Date Published: 03/26/2021 04:00 AM

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–2022 REGULAR SESSION

ASSEMBLY BILL**NO. 1340**

**Introduced by Assembly Members Santiago and Friedman
(Principal coauthor: Senator Stern)**

February 19, 2021

An act *to amend Section 5008 of, and to add Sections 5014, 5402.5, and 5899.3 to, the Welfare and Institutions Code*, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1340, as amended, Santiago. Mental health ~~services: involuntary detention~~ services.

Existing

(1) *Existing* law, the Lanterman-Petris-Short Act, authorizes the involuntary commitment and treatment of persons with specified mental health disorders for the protection of the persons so committed. Under the act, if a person, as a result of a mental health disorder, is a danger to others, or to themselves, or is gravely disabled, the person may, upon probable cause, be taken into custody by a peace officer, a member of the attending staff of an evaluation facility, designated members of a mobile crisis team, or another designated professional person, and placed in a facility designated by the county and approved by the State Department of Social Services as a facility for 72-hour treatment and evaluation. The act also authorizes a conservator of the person, of the estate, or of both, to be appointed for a person who is gravely disabled as a result of a mental health disorder. For these purposes, existing law defines "gravely disabled" to mean either a condition in which a person, as a result of a mental health disorder or chronic alcoholism, is unable to provide for the person's basic personal needs for food, clothing, or shelter, or a condition in which a person has been found mentally incompetent, as specified.

~~This bill would state the intent of the Legislature to enact legislation to reform the Lanterman-Petris-Short Act, including expanding the definition of "gravely disabled" to add a condition in which a person is unable to provide for their own medical treatment as a result of a mental health disorder, and emphasizing the necessity to create policies that prioritize living safely in communities.~~

This bill would expand the definition of "gravely disabled" for these purposes to also include a condition in which a person, as a result of a mental health disorder, is unable to provide for their basic personal needs for medical treatment, as defined, if the failure to receive medical treatment is either for an existing life-threatening medical

condition or the person is in imminent danger of physical injury or life-threatening medical condition and there is a substantial and imminent risk, in either instance, of either death or prolonged hospitalization. By expanding the definition of "gravely disabled" and thereby increasing the duties of local agencies, this bill would impose a state-mandated local program.

This bill would require the State Department of State Hospitals to create a model discharge plan for counties and hospitals to follow when discharging those held under temporary holds or conservatorship. The bill would require county mental health departments to collaborate with facilities and hospitals to develop, implement, and adhere to an adequate discharge plan that ensures continuity of services and care in the community for all individuals exiting holds or conservatorship and to implement that plan across the entire network of acute and subacute facilities on or before July 1, 2023. By placing additional duties on counties, this bill would impose a state-mandated local program.

(2) Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs. The MHSA also established the Mental Health Services Oversight and Accountability Commission to oversee the administration of various parts of the act.

This bill, to the extent permitted under state and federal law and consistent with the Mental Health Services Act and for the purposes of the above-mentioned provisions of the Lanterman-Petris-Short Act, would clarify that counties may pay for the services authorized in those provisions using funds from the Mental Health Services Fund when included in county plans, as specified, and would also authorize counties to pay for those services with specified funds from the Local Revenue Fund and the Local Revenue Fund 2011. The bill would require the State Department of Health Care Services to, on or before July 1, 2022, issue guidance specifying which services authorized under the Lanterman-Petris-Short Act may be paid by counties with funds from the Mental Health Services Fund.

This bill would require the commission to develop, implement, and oversee a public and comprehensive framework for tracking and reporting spending on mental health programs and services from all major fund sources and of program- and service-level and statewide outcome data, as specified. The bill would require counties to report to the commission its expenses in specific categories, including, but not limited to, inpatient care or intensive outpatient services, as well as their unspent funding from all major funding sources. By imposing new reporting requirements on counties, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as 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.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a superior court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of ~~such those~~ hospital and other services as ~~may be~~ are indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for

reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII 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 part does not prohibit an intensive treatment facility from also providing 72-hour evaluation and treatment.

(d) "Referral" is referral of persons by each agency or facility providing assessment, evaluation, crisis intervention, or treatment services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services that prevent initial recourse to hospital treatment or aftercare services that support adjustment to community living following hospital treatment. These services may be provided through county or city mental health departments, state hospitals under the jurisdiction of the State Department of State Hospitals, regional centers under contract with the State Department of Developmental Services, or other public or private entities.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations ~~which that~~ present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with ~~such that~~ therapy, or other services, as ~~may be is~~ appropriate. The interview or interviews may include family members, significant support persons, providers, or other entities or individuals, as appropriate and as authorized by law. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of a mental health disorder, to be a danger to others, or to ~~himself or herself, self~~, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental health disorder, is unable to provide for ~~his or her~~ their basic personal needs for food, clothing, or shelter. *A person may also be "gravely disabled" pursuant to this subparagraph if the person, as a result of a mental health disorder, is unable to provide for their own medical treatment, if the failure to receive medical treatment is either for an existing life-threatening medical condition or the person is in imminent danger of physical injury or life-threatening medical condition and there is a substantial and imminent risk, in either instance, of either death or prolonged hospitalization, as attested by a medical professional in their best medical judgment. For purposes of this subparagraph, "medical treatment" means the administration or application of remedies for a mental health condition, as identified by a licensed mental health professional, or a physical health condition, as identified by a licensed medical professional. A person who is deemed "gravely disabled" pursuant to this subparagraph has the right to refuse medical treatment, subject to the provisions of this part.*

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The complaint, indictment, or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) There has been a finding of probable cause on a complaint pursuant to paragraph (2) of subdivision (a) of Section 1368.1 of the Penal Code, a preliminary examination pursuant to Section 859b of the Penal Code, or a grand jury indictment, and the complaint, indictment, or information has not been dismissed.

(iii) As a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against ~~him or her~~ *them* and to assist counsel in the conduct of ~~his or her~~ *the* defense in a rational manner.

(iv) The person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for ~~his or her~~ *their* basic personal needs for food, clothing, or shelter.

(3) The term "gravely disabled" does not include persons with intellectual disabilities by reason of that disability alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or ~~any~~ a parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which ~~he or she~~ *the parole officer* has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.

(l) "Antipsychotic medication" means ~~any~~ medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

(n) "Designated facility" or "facility designated by the county for evaluation and treatment" means a facility that is licensed or certified as a mental health treatment facility or a hospital, as defined in subdivision (a) or (b) of Section 1250 of the Health and Safety Code, by the State Department of Public Health, and may include, but is not limited to, a licensed psychiatric hospital, a licensed psychiatric health facility, and a certified crisis stabilization unit.

SEC. 2. Section 5014 is added to the Welfare and Institutions Code, to read:

5014. (a) To the extent otherwise permitted under state and federal law and consistent with the Mental Health Services Act, all of the following shall apply for purposes of Article 1 (commencing with Section 5150) and Article 4 (commencing with Section 5250) of Chapter 2 and Chapter 3 (commencing with Section 5350):

(1) Counties may pay for the provision of services using funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount within the Support Services Account of the Local Revenue Fund 2011, funds from the Mental Health Services Fund when included in county plans pursuant to Section 5847, and any other funds from which the Controller makes distributions to the counties for those purposes.

(2) A person shall not be denied access to services funded by the Mental Health Services Fund based solely on the person's voluntary or involuntary legal status.

(3) Counties shall not use funds from the Mental Health Services Fund to pay for more than one cumulative year of acute or subacute care services provided to a person under a conservatorship established pursuant to Section 5350 for each established conservatorship, including any succeeding periods of conservatorship.

(b) On or before July 1, 2022, the State Department of Health Care Services shall issue guidance specifying which services authorized under Article 1 (commencing with Section 5150) and Article 4 (commencing with Section 5250) of Chapter 2 and Chapter 3 (commencing with Section 5350) may be paid by counties with funds from the Mental Health Services Fund.

SEC. 3. Section 5402.5 is added to the Welfare and Institutions Code, to read:

5402.5. (a) The State Department of State Hospitals shall create a model discharging plan for counties and hospitals to follow when discharging those held under temporary holds or conservatorship.

(b) Each county mental health department shall collaborate with facilities and hospitals to develop, implement, and adhere to an adequate discharge plan that ensures continuity of services and care in the community for all individuals exiting holds or conservatorship pursuant to this part. The discharge plan shall be implemented across the entire network of acute and subacute facilities on or before July 1, 2023. Counties may adopt the model plan created by the department for this purpose.

(c) Each county shall fund the implementation of the plan to link individuals exiting holds or conservatorship to a broad continuum of community-based programs and services, including assisted outpatient treatment if the person is eligible for those services. A county may use Mental Health Services Act funds for this purpose, to the extent that use is consistent with the act and included in the county's expenditure plan developed pursuant to Section 5847.

SEC. 4. Section 5899.3 is added to the Welfare and Institutions Code, to read:

5899.3. (a) The Mental Health Services Oversight and Accountability Commission shall develop, implement, and oversee a public and comprehensive framework for tracking and reporting spending on mental health programs and services from all major fund sources and of program- and service-level and statewide outcome data. The framework shall, at minimum, do all of the following:

(1) Include balances of all major, relevant funding sources, including balances of unspent MHSA funds. Funding should include specificity about how counties spend funds within the broad MHSA categories, including, but not limited to, how funds support specific types of services such as crisis intervention or housing programs.

(2) Articulate information about the programs and services counties provide and the populations they serve, statewide and for each county, using those funds.

(3) Report broader outcomes that show the extent to which the state's entire mental health system is helping people in need.

(b) To develop the framework required in subdivision (a) the commission shall do all of the following:

(1) Consult with state and local mental health authorities to develop and implement the framework.

(2) Consider utilizing available data and information when developing the reporting framework. The commission may obtain relevant data and information from other state entities for this purpose.

(3) Develop categories of mental health programs and services that are tailored to inform assessments of spending patterns.

(4) Develop statewide measurements of mental health and report publicly about those measurements annually on the commission's internet website.

(5) Work with counties and other state and local agencies, as necessary, to use the information it collects to improve mental health in California.

(c) Each county shall report to the commission its expenses in specific categories, including, but not limited to, inpatient care or intensive outpatient services, as well as their unspent funding from all major funding sources. Reporting shall be done in a format prescribed by the commission.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. It is the intent of the Legislature to enact legislation to reform the Lanterman Petris Short Act, including expanding the definition of "gravely disabled" to add a condition in which a person is unable to provide for their own medical treatment as a result of a mental health disorder, and emphasizing the necessity to create policies that prioritize living safely in communities.~~