Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 2015 (Eggman) – As Amended May 20, 2020

Policy Committee: Health Vote: 15 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill allows individuals presenting evidence at a certification review hearing for a 14-day involuntary mental health hold to include information regarding the medical condition of the person subject to the hold and how that condition bears on certifying the person as a danger to themselves or to others or as gravely disabled.

It also requires this information to be considered by the hearing officer in the determination of probable cause for an involuntary hold.

FISCAL EFFECT:

The overall effect of this bill on state trial courts is unknown. If the bill leads to a higher number of case filings for subsequent 14-day holds, 30-day holds and conservatorships, there could be additional GF cost pressure on trial courts. If granting additional 14-day holds allows for more successful treatment at an earlier stage, as the author intends, and leads to fewer subsequent hearings, pressure on trial courts could be reduced.

COMMENTS:

1) **Purpose**. According to the author, psychiatrists say they often felt they had to release patients who no longer met the current criteria for a hold although the patient was disabled by a mental illness so severe that they lacked the capacity to manage their health issues and to seek sufficient medical care. The author notes those experiencing severe mental illness cycle through a revolving door of crisis intervention, stabilization, incarceration or hospitalization, and release. This bill will allow information about a person's medical condition to be presented and inform whether the person is certified for an involuntary hold as a danger to themselves or others.

2) **Background**. An officer or clinician may involuntarily detain a person who, as the result of a mental disorder , is a danger to themselves or a danger to others, or is gravely disabled. Current law defines "gravely disabled" for these purposes as a condition in which a person, as a result of a mental health disorder, is unable to provide for their basic personal needs for food, clothing or shelter. The law also creates a series of processes for individuals to receive mental health treatment while being held involuntarily through what is commonly known as a 72-hour "5150 hold," after the Welfare and Institutions Code (WIC) section 5150.

   A person may be released after the 72-hour 5150 hold or, depending upon the condition of the person and whether they continue to pose a danger to themselves or others, they could be held for two additional 14-day holds (pursuant to WIC section 5250 or 5260), a 30-day hold

or a 180-day hold. The court can also compel a Lanterman-Petris-Short (LPS) conservatorship, whereby a conservator is appointed to make legal decisions for the person. This lasts for one year and is renewable.

These processes attempt to balance individual liberty with the need to protect both individuals themselves and the community from behaviors that may endanger life. There are reviews at each step of the process to ensure appropriateness of continued involuntary detention.

This bill amends the "5250 hold" process for an initial involuntary 14-day hold, directly subsequent to the initial 72-hour hold. Under WIC section 5250 and related statutes a person can be held for an additional 14 days if they are a danger to self or others, if they are admitted into a facility designated for such holds by the county and if they are unwilling to accept voluntary treatment. A certification for such a hold must be signed by two specified medical or mental health professionals and a certification review hearing must be conducted unless judicial review is requested.

The certification review hearing is conducted by a court-appointed commissioner or referee or a certification review hearing officer who meets specified qualifications. At this hearing, the director of the designated facility presents evidence in support of the certification and a district attorney or county counsel may also elect to present evidence. This bill would allow any of those persons to present as evidence information regarding the person's medical condition and how that condition bears on the certification of the person as either a danger to themselves or others or gravely disabled.

By explicitly allowing the presentation of additional evidence and requiring it to be considered, this bill is intended to increase the number of successful holds in situations where an individual's medical condition poses a danger to themselves or others and the individual is unable to properly care for the condition as a result of a mental health disorder.

3) **Related Legislation.** AB 1976 (Eggman), pending in this committee, modifies existing law related to the Assisted Outpatient Treatment Demonstration Project (AOT, also known as Laura's Law).

   AB 2679 (Gallagher), pending in the Assembly Health Committee, and SB 1251 (Moorlach), pending in the Senate Judiciary Committee, both authorize additional counties to establish a "housing conservatorship" process.

   AB 2899 (Jones-Sawyer), pending in the Assembly Health Committee, authorizes the extension of time a person may be certified for intensive treatment following an initial 72 hour hold for a period longer than the existing 14 days.

4) **Prior Legislation**. Many bills related to the topic addressed by AB 2015 has been introduced in recent years. The most closely related include the following:

   AB 1971 (Santiago, Friedman, and Chen), of the 2017-18 Legislative Session, would have expanded the definition of "gravely disabled" in the county of Los Angeles until January 1, 2024, to include a person's inability to provide for their basic personal needs for medical treatment, as specified, and contained specified reporting requirements. AB 1971 died on the Senate inactive file.

AB 1572 (Chen) and SB 640 (Moorlach), of the current Legislative Session, change the definition of "gravely disabled" to include the risk of harm as a result of inability to make informed decisions because of a mental disorder. AB 1572 and SB 640 failed passage in Senate Health Committee and AB 1572 was referred to Assembly Health Committee and never heard.

SB 1045 (Weiner), Chapter 845, Statutes of 2018, and SB 40 (Weiner), Chapter 467, Statutes of 2019, each established a pilot program, until January 1, 2024, for Los Angeles and San Diego Counties, and the City and County of San Francisco, respectively, upon authorization by their respective boards of supervisors, to implement a "housing conservatorship" procedure 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 us disorder, as evidenced by eight or more 5150 detentions in a 12-month period for evaluation and treatment.

AB 1194 (Eggman), Chapter 570, Statutes of 2015, requires, for purposes of determining whether a person is a danger to self or others, an individual making that determination to consider available relevant information about the historical course of the person's mental disorder if the individual concludes that the information has a reasonable bearing on the determination, and prohibits the individual from being limited to consideration of the danger of imminent harm.

SB 364 (Steinberg), Chapter 567, Statues of 2014, made several reforms and updates to the LPS Act.

5) **Support.** The California Psychiatric Association (CPA), sponsor of this bill, states that current law fails to address the needs of those individuals with a mental illness who lack the capacity to provide for their medical needs. They say psychiatrists will often certify a severely mentally ill patient with serious health issues for a 5250 hold and provide evidence of the seriousness of their health condition and their inability to care for it, but current law prevents the hearing officer from considering that evidence. CPA contends this restriction results in unsafe release because it creates a blindness relative to the physical health condition of the patient. Other supporters include the California Psychological Association, California Treatment Advocacy Coalition, and individual health care provider organizations.

6) **Opposition.** Opponents include the California Behavioral Health Planning Council and Cal Voice (formerly NorCal MHA). They express concern about institutionalization at the expense of individual civil liberties and express the belief that any effort to institutionalize an individual involuntarily is counterproductive to the wellness and recovery model that California embraces, which allows an individual to choose how, when and where they are to receive services and treatment related to mental health and substance use.

Analysis Prepared by: Lisa Murawski / APPR. / (916) 319-2081