

ASSEMBLY THIRD READING

AB 2015 (Eggman)

As Amended May 20, 2020

Majority vote

SUMMARY:

Authorizes the evidence presented in support of certification of an individual for involuntary detention by a determination that the individual is a danger to themselves or others or gravely disabled, under what is known as a Welfare and Institutions Code 5250 hold, for no more than 14 days of intensive treatment related to mental health disorders or impairment by chronic alcoholism, to include 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. Requires the hearing officer to consider the information in the determination of probable cause for certification.

COMMENTS:

The Lanterman-Petris-Short (LPS) Act was signed into law in 1967 and provides for involuntary commitment for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met. Additionally, the LPS Act provides for LPS conservatorships, resulting in involuntary commitment for the purposes of treatment if an individual is found to meet the criteria of being a danger to themselves or others or is gravely disabled as defined. The LPS Act provides for a conservator of the person, of the estate, or of both the person and the estate for a person who is gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism or use of controlled substances. The person for whom such a conservatorship is sought has the right to demand a court or jury trial on the issue of whether they meet the gravely disabled requirement. The purpose of an LPS conservatorship is to provide individualized treatment, supervision, and placement for the gravely disabled person. Current law also deems a person as not being gravely disabled for purposes of a conservatorship if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help. The LPS Act, along with the provisions allowing for a court ordered outpatient service available through what is known as Laura's Law, provides a robust system for mandating intensive inpatient and outpatient care, along with general oversight, for those who may not be able to care for themselves.

- 1) 5150's: Typically one first interacts with the LPS Act through what is known as a 5150 hold, which allows a peace officer or other authorized individual as specified to commit a person for an involuntary detention of up to 72 hours for evaluation and treatment if they are determined to be, as a result of a mental health disorder, a threat to self or others, or gravely disabled. The peace officer or other authorized individual who initially detains the individual must determine and document that the individual meets this standard. When making the determination, the peace officer or other authorized person may consider the individual's historical course, which includes evidence presented by a person who has provided or is providing mental health or related support services to the person on the 5150 hold; evidence presented by one or more members of the family of the person on the 5150 hold; and, evidence presented by the person on the 5150 hold, or anyone designated by that person, if the historical course of the person's mental disorder has a reasonable bearing on making a determination that the person requires a 5150 hold.

- 2) *5250's*. Following the 72-hour hold under a 5150, a person may be certified for intensive treatment, which initially permits a hold for an additional period not to exceed 14-days, without court review, if they are found to still be a danger to self or others, or gravely disabled. When determining whether the person is eligible for a 14-day hold, the professional staff of the agency or facility providing evaluation services must find that the person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis. A notice of certification is required for all persons certified for intensive treatment, and a copy of the notice for certification is required to be personally delivered to the person certified, the person's attorney, or the attorney or advocate, as specified.
- 3) *5270's*. If, after the initial 14 days, a person is still found to remain gravely disabled and unwilling or unable to accept voluntary treatment, the person may be certified for an additional period of not more than 30 days of intensive treatment. A person cannot be found at this point to be gravely disabled if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help.
- 4) *5350's*. At the expiration of the 14 days period (or subsequent 30 day period) of intensive treatment, a person may be confined for further treatment under the LPS for an additional period, not to exceed 180 days if one of the following exists:
 - a) They have attempted, inflicted, or made a serious threat of substantial physical harm to either themselves or another after having been taken into custody, and while in custody, and who, as a result of mental disorder, presents a demonstrated danger of inflicting substantial physical harm upon others;
 - b) They have attempted, or inflicted physical harm to themselves or another that resulted in them being taken into custody, and who presents, as a result of mental disorder, a demonstrated danger of inflicting substantial physical harm upon others; and,
 - c) They have made a serious threat of substantial physical harm to themselves or another within seven days of being taken into custody, that threat having at least in part resulted in their being taken into custody, and they present, as a result of mental disorder, a demonstrated danger of inflicting substantial harm to others.

According to the Author:

According to the author, psychiatrists identified that they often felt they had to release patients that no longer met the current criteria for a hold although the patient was so disabled by a severe mental illness that they lacked the capacity to manage their health issues and to seek sufficient medical care. The failure in the law to specifically address this means patients suffering from a debilitating mental illness miss the opportunity to receive adequate and extended medical care while receiving treatment for their mental health condition. Unfortunately, those experiencing severe mental illness in our communities cycle through a revolving door of crisis intervention, stabilization, incarceration or hospitalization, and release. A shortage of services has resulted in a rise of more mentally ill persons in jails than hospitals or parked in emergency rooms awaiting an available bed. County jails and emergency rooms are not equipped with the proper resources nor were they designed to evaluate and treat the mentally ill. Short-term involuntary treatment is available only to stabilize the individual and often does not provide an ample amount of time for a patient to get treatment. There is no question that we must do more to invest in community recourses and provide early intervention. This bill seeks to support individuals that face serious

health risks by ensuring that they have the opportunity and resources to manage medical issues that are or can become complicated and acute without medical treatment.

Arguments in Support:

The California Psychiatric Association (CPA), sponsor of this bill, states that when an individual with a mental disorder lacks the capacity to provide for their basic human needs of food, clothing, and shelter, the law considers them gravely disabled and allows treatment over objection of the patient in order to stabilize their mental illness, restore their capacity, and reduce the risk of harm the individual exposes themselves to. However, current law fails to address the needs of those individuals with a mental illness who lack the capacity to provide for their medical needs. Many of these individuals will be admitted to a psychiatric inpatient unit under a 72-hour, 5150 hold. Subsequently, the patient may be certified for a further 14-day period of intensive treatment under a 5250 hold if the treatment team feels like the individual cannot be safely released into the community after 72 hours. The 5250 certification is subject to court scrutiny. The certification may be upheld by a hearing officer, or the officer may find insufficient evidence justifying the certification and the patient will be ordered released. Psychiatrists will often certify a severely mentally ill patient with serious health issues for a 5250 and provide evidence of the seriousness of their health condition and their inability to care for it. In conclusion, CPA states current law prevents the hearing officer from considering that evidence resulting in unsafe release because it creates a blindness relative to the physical health condition of the patient. This bill would correct this situation by allowing evidence of a person's medical condition to be introduced into evidence and considered in the release determination.

Arguments in Opposition:

Access California, in opposition, states that the LPS Act specifically limits involuntary commitment to those who are gravely disabled due to a severe mental health condition and not physical health. This bill would create a slippery slope where persons with a medical condition, who also happen to have a mental health condition, would be subject to involuntary confinement in a mental health facility, which is a clear violation of the civil rights of those with serious medical conditions who may have an array of reasons for the severity of their medical condition unrelated to their mental health. In conclusion, Access California states that this bill is an unreasonable expansion of California's involuntary commitment laws to a population which would not be appropriately served under the LPS Act.

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, 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 General Fund 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.

VOTES:**ASM HEALTH: 15-0-0**

YES: Wood, Mayes, Aguiar-Curry, Bigelow, Bonta, Burke, Carrillo, Flora, Limón, McCarty, Nazarian, Ramos, Rodriguez, Santiago, Waldron

ASM APPROPRIATIONS: 18-0-0

YES: Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

UPDATED:

VERSION: May 20, 2020

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