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## SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

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**BILL NO:** SB 782  
**AUTHOR:** Glazer  
**VERSION:** February 19, 2021  
**HEARING DATE:** March 24, 2021  
**CONSULTANT:** Reyes Diaz

**SUBJECT:** Assisted outpatient treatment programs

**SUMMARY:** Permits a court to order a person to obtain assisted outpatient treatment (AOT) services if the court finds that the petition establishes the person either is a conservatee or former conservatee and would benefit from AOT services to reduce the risk of deteriorating mental health, as specified.

**Existing law:**

- 1) Permits a county Board of Supervisors, by resolution, until July 1, 2021, to authorize (opt-in to) AOT services, also known as “Laura’s Law,” whereby a county behavioral health director can petition for a court to order a person over the age of 18 with a mental illness to receive AOT if the court finds the individual meets specified criteria, including: a clinical determination that the person is unlikely to survive safely in the community without supervision; the person has a history of noncompliance with treatment for his or her mental illness; the person's condition is substantially deteriorating; and participation in AOT would be the least restrictive placement necessary to ensure the person's recovery. [WIC §5346]
- 2) Implements Laura’s Law statewide, beginning July 1, 2021, and permits a county or group of counties that do not wish to implement Laura’s Law to opt out of the requirements of AOT services through a specified process. Requires such counties to state the reason for opting out. [WIC §5346]
- 3) Permits specified individuals to make a request to the county health department for the filing of a petition to obtain an order authorizing AOT, including a parent, spouse, sibling, or adult child of the subject of the petition; licensed mental health treatment providers; and peace officer, parole officer, or probation officer, as specified. [WIC §5346]
- 4) Establishes the Lanterman-Petris-Short (LPS) Act to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, as well as to safeguard a person’s rights, provide prompt evaluation and treatment, and provide services in the least restrictive setting appropriate to the needs of each person. Permits the involuntary detention of a person who is found to be a danger to self or others, or gravely disabled, for various periods of time for evaluation and treatment. [WIC §5000, et seq.]
- 5) Defines “gravely disabled” as a condition in which a person, as a result of a mental disorder or impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter, or a condition in which a person has been found mentally incompetent, as specified, for purposes of detaining the person for assessment, evaluation, and treatment; providing a court-ordered evaluation, as specified; certifying the person for intensive treatment; or, placing the person under conservatorship. [WIC §5008]

**This bill:** Permits a court to order a person who is the subject of a petition for AOT services to obtain those services if the court finds that the facts of the petition establish that the person either:

- a) Is a conservatee with a pending petition to terminate a conservatorship and who, if the petition is granted, would benefit from AOT services to reduce the risk of deteriorating mental health while living independently; or,
- b) Is a former conservatee whose petition to terminate conservatorship was granted within the preceding 60 days and who would benefit from AOT services to reduce the risk of deteriorating mental health while continuing to live independently.

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

**COMMENTS:**

- 1) *Author's statement.* According to the author, a state audit released last summer stated about one in four people were placed on a conservatorship for a second time despite having been judged to have successfully recovered from a conservatorship previously. This is a result of individuals not receiving sufficient continued care after exiting their conservatorships. As individuals transition out of conservatorships, they need to be able to receive continued care to help ensure they transition back to living independently. AOT can provide involuntary treatment in a community setting, providing a better transition for individuals to living completely independently, with evidence showing it successfully improves outcomes.
- 2) *Laura's Law.* Enacted pursuant to AB 1421 (Thompson, Chapter 1017, Statutes of 2002), Laura's Law established a new court-ordered AOT demonstration program aimed at individuals with mental illness who meet specified criteria but who do not meet the criteria (danger to self or others, or gravely disabled) for involuntary commitment to an inpatient facility. The law is named in memory of Laura Wilcox, a 19-year-old college student who was killed by a severely mentally ill man who was not adhering to prescribed mental health treatment. AOT provides counties with the option to implement intensive programs for individuals who have difficulty maintaining their mental health stability in the community and have frequent hospitalizations and contact with law enforcement related to untreated or undertreated mental illness. Currently, Laura's Law requires a county's Board of Supervisors to opt-in by resolution and to make a finding that access to voluntary mental health programs serving adults and children would not be reduced as a result of implementation. The law did not provide for any state or local funding, which has been perceived as one of the barriers to its statewide implementation. No county implemented Laura's Law program until Nevada County in 2008. As a way to encourage counties to opt-in, SB 585 (Steinberg and Correa, Chapter 288, Statutes of 2013), clarified that Mental Health Services Act funds could be used for AOT services if the county had implemented the program. Since then, and as of March 2020, 18 other counties have received approval and adopted a program: Alameda, Contra Costa, El Dorado, Kern, Los Angeles, Marin, Mendocino, Orange, Placer, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Shasta, Stanislaus, Ventura, and Yolo. In September 2020, AB 1976 (Eggman, Chapter 140, Statutes of 2020) was signed into law, which implements Laura's Law statewide, effective July 1, 2021, and permits counties to opt out of providing AOT services, as specified. According to the Department of Health Care Services (DHCS), counties must submit their requests to DHCS to opt out no later than 60 days prior to the statewide implementation date of July 1, 2021.

- 3) *LPS Act*. The LPS Act provides for involuntary detentions for varying lengths of time for the purpose of evaluation and treatment, provided certain requirements are met, such as that an individual is taken to a county-designated facility. Typically, one first interacts with the LPS Act through a 5150 hold initiated by a peace officer or other person authorized by a county who must determine and document that the individual meets this standard. A county-designated facility is authorized to then involuntarily detain an individual for up to 72 hours for evaluation and treatment if they are determined to be, as a result of a mental health disorder, a threat to self or others, or gravely disabled. The professional person in charge of the county-designated facility is required to assess an individual in person to determine the appropriateness of the involuntary detention prior to admitting the individual. Outside of the LPS Act process, an NDF is authorized to involuntarily detain an individual for up to eight hours but less than 24 hours after examination, assessment, or evaluation by specified persons. Some NDFs use county-designated persons to make the examinations, assessments, or evaluations prior to either involuntarily detaining an individual or releasing an individual from involuntary detention.
- 4) *CSA audit on the LPS Act*. The CSA released *LPS Act: California Has Not Ensured That Individuals With Serious Mental Illnesses Receive Adequate Ongoing Care* on July 28, 2020. The audit focused on the following issues in three counties (Los Angeles, San Francisco, and Shasta):
- Criteria for involuntary detention for those who are a danger to self or others or gravely disabled, due to a mental health condition, and criteria for conservatorship, and whether the counties have consistently followed those criteria;
  - Differences in approaches among the counties in implementing the LPS Act, if any;
  - Funding sources, and whether funding is a barrier to implementing the LPS Act; and,
  - Availability of treatment resources in each county.

Relative to this bill, the CSA stated many of the individuals who were placed on repeated LPS short-term holds or conservatorships struggled to maintain their stability after leaving treatment in large part because they frequently failed to take medication that was essential to managing their symptoms and maintaining themselves successfully in a community setting. The CSA found that many individuals were subjected to repeated instances of involuntary treatment without being connected to ongoing care that could help them live safely in their communities, as AOT services have shown to provide. For example, almost 7,400 people in Los Angeles County experienced five or more short-term involuntary holds from fiscal years 2015–16 through 2017–18, but only 9% were enrolled in the most intensive and comprehensive community-based services available in fiscal year 2018–19. The CSA stated that AOT is an effective approach to serving individuals in their communities, and made recommendations for the Legislature to require AOT services in all counties, as well as expand access to AOT to people leaving conservatorship.

- 5) *Double referral*. Should this bill pass out of this Committee, it will be referred to the Senate Committee on Judiciary.
- 6) *Related legislation*. SB 507 (Eggman and Stern), broadens criteria to permit AOT for a person who is in need of AOT services, as specified, without also requiring the person's condition to be substantially deteriorating. Permits specified individuals to testify at a court hearing via videoconferencing. *SB 507 is scheduled to be heard in this Committee on March 24, 2021.*

- 7) *Prior legislation.* AB 1976 (Eggman) implements Laura's Law statewide, effective July 1, 2021; permits counties to opt out of providing AOT services, as specified; and deletes the sunset date for Laura's Law.

AB 3242 (Irwin, Chapter 149, Statutes of 2020) authorizes the use of telehealth or other audio-visual technology to examine, assess, or evaluate individuals for the purposes of involuntarily detention by specified entities.

AB 59 (Waldron, Chapter 251, Statutes of 2016) extends the operation of Laura's Law until January 1, 2022.

AB 1193 (Eggman of 2015) would have required a county that has not held a specified public hearing to elect to initiate Laura's Law by January 1, 2017, to hold a hearing by January 1, 2018, and would have required the Board of Supervisors to consider both whether specified programs may be reduced as a result of participation and options for providing services other than court-ordered outpatient treatment. *AB 1193 was held on the Assembly Appropriations suspense file.*

AB 1265 (Conway of 2014) would have permitted an initial court order for AOT services to be extended for up to 12 months (rather than six months), and required that each person discharged from a hospital be considered for AOT in the counties that have implemented Laura's Law. *AB 1265 failed passage in the Assembly Judiciary Committee.*

AB 2266 (Waldron of 2013) would have authorized the court to order a person to receive AOT for an initial period not to exceed 12 months. AB 2266 would have, in a county that elects to implement Laura's Law, upon the release of a person from intensive treatment or post certification treatment, authorized the professional staff of the agency or facility that provided the treatment to evaluate whether the person meets the criteria for AOT. AB 2266 would have authorized the professional staff to request the county mental health director to file a petition in the superior court for AOT if that person met the criteria. *AB 2266 failed passage in the Assembly Judiciary Committee.*

SB 585 (Steinberg and Correa) specified that counties that elect to implement Laura's Law may, to the extent permissible under state and federal laws, pay for those services using funds distributed to 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, and any other funds from which the Controller makes distributions to the counties, for those purposes.

AB 1421 (Thompson) enacted Laura's Law.

- 8) *Support.* The Psychiatric Physicians Alliance of California (PPAC) states that AOT is an evidence-based model with a long history of demonstrating successful outcomes and addresses the needs of a small cohort of individuals who are unable to recognize they have a severe mental illness thereby refusing to take medications or accept other forms of services and supports. PPAC argues these individuals suffer a repeated pattern of revolving door hospitalizations and arrests, and engage in acts or threats of violence. They are often victimized on the streets and neglect a variety of physical conditions, some of which if

untreated may result in serious harm or death. PPAC argues the CSA recommended AOT as step-down care to these individuals post-release, and this bill offers those subject to conservatorships stability in the community. The Steinberg Institute states that according to the CSA audit, about one in four people were placed on a conservatorship twice despite having been judged to have successfully recovered from a conservatorship previously. This is a result of people not receiving sufficient care after being released from conservatorships.

- 9) *Letter of concerns.* The County Behavioral Health Directors Association of California (CBHDAC) expresses concerns due to the substantial increased cost to existing AOT programs that would result from this bill. Additionally, the benefits of this expansion are unclear as AOT currently does not include involuntary medication as part of the AOT court order, and all individuals highlighted in the CSA audit were no longer taking medication upon release from conservatorship. CBHDAC recommends the Legislature consider how to improve medication compliance in AOT programs. CBHDAC also argues that this bill does not take into account existing practices to assist in the transition back into the community from conservatorship. Common county practice includes, when an individual appears to have recovered during their conservatorship, returning the individual back to the community in an unlocked setting while maintaining the conservatorship for a short duration of time to ease the transition. Then upon release from conservatorship, the individual is offered voluntary services, which can include a Full-Service Partnership. These function as existing step-downs.

**SUPPORT AND OPPOSITION:**

**Support:** Psychiatric Physicians Alliance of California  
Steinberg Institute

**Oppose:** None received

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