
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 43 (Eggman) - Behavioral health

Version: April 27, 2023

Urgency: No

Hearing Date: May 8, 2023

Policy Vote: HEALTH 12 - 0, JUD. 11 - 0

Mandate: Yes

Consultant: Agnes Lee

Bill Summary: SB 43 would expand the definition of “gravely disabled,” for purposes of involuntarily detaining an individual, to include a condition in which a person, as a result of a mental health disorder or a substance use disorder, or both, is at substantial risk of serious harm or is currently experiencing serious harm to their physical or mental health.

Fiscal Impact:

- Unknown, potentially significant workload costs in the millions, to the courts to adjudicate conservatorship petitions, by trial if demanded by the petition subject, and review the progress reports for established conservatorships based upon the expanded definition of gravely disabled (Trial Court Trust Fund, General Fund). While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated for trial court operations.
- Unknown, potentially significant costs for an increase in the use of mental health and substance abuse treatment services for individuals involuntarily detained and individuals under conservatorship based upon the expanded definition of gravely disabled (General Fund, federal funds, county funds). Cost to counties for administration would be potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

Background: The Lanterman-Petris-Short (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 the standard for a 5150 hold. 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 danger to self or others, or gravely disabled. The professional person in charge of the county-designated facility is required to assess an individual to determine the appropriateness of the involuntary detention prior to admitting the individual. Subject to various conditions, a person who is found to be a danger to self or others, or gravely disabled, can be subsequently involuntarily detained for an initial up-to 14 days for intensive treatment, an additional 14 days (or up to an additional 30 days in counties that have opted to provide this additional up-to 30-day intensive treatment

episode), and ultimately a conservatorship, which is typically for up to a year and may be extended as appropriate.

Current law defines “gravely disabled,” for purposes of evaluating and treating an individual who has been involuntarily detained or for placing an individual in conservatorship, as a condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

Proposed Law: Specific provisions of the bill would:

- Expand the definition of “gravely disabled,” for purposes of the LPS Act, to include a condition in which a person, as a result of a mental health disorder or a substance use disorder, or both, is at substantial risk of serious harm or is currently experiencing serious harm to their physical or mental health.
- Define “serious harm” as significant deterioration, debilitation, or illness due to the person’s failure to meet one or more of the following conditions:
 - a) Satisfy the need for nourishment;
 - b) Attend to necessary personal or medical care;
 - c) Utilize adequate shelter;
 - d) Be adequately clothed; or,
 - e) Attend to self-protection or personal safety.
- Permit a substantial risk of serious harm to the physical or mental health of the person to be evidenced by the fact that they previously suffered serious harm to their physical or mental health in the historical course of their mental health disorder or substance use disorder, their condition is again deteriorating, they are unable to understand their disorder, and their decisionmaking is impaired due to their lack of insight into their disorder.
- State the existence of a mental health disorder or substance use disorder diagnosis does not alone establish serious harm or a substantial risk of serious harm to the physical or mental health of a person.
- Deem the statements of health practitioners, as defined, for purposes of an expert witness in a proceeding relating to the appointment or reappointment of a conservator, as specified, that are included in the medical record, as not hearsay.

Related Legislation: SB 1416 (Eggman, 2022) would have expanded the definition of “gravely disabled” for purposes of the LPS Act. SB 1416 was not heard in the Assembly Judiciary Committee.