SENATE COMMITTEE ON HEALTH
Senator Dr. Akilah Weber Pierson, Chair

BILL NO: SB 1221
AUTHOR: Stern
VERSION: February 19, 2026
HEARING DATE: April 15, 2026
CONSULTANT: Reyes Diaz

SUBJECT: Lanterman-Petris-Short Act: conservatorships

SUMMARY: Makes various changes to the conservatorship process, such as requiring evaluations for a person's ability to provide for their personal basic needs or to be nonviolent while outside of an incarcerated setting; requiring the Department of State Hospitals to prioritize placement of one class of conservatees over another; and, permitting district attorneys to be present at conservatorship hearings to perform such things as represent public safety interests, review pertinent documents, and challenge the placement recommendation by a conservator.

Existing law:
1) Establishes the Lanterman-Petris-Short (LPS) Act to end the inappropriate, indefinite, and involuntary commitment of persons with mental health (MH) 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 involuntary detention of a person deemed to be a danger to self or others, or "gravely disabled" for periods of up to 72 hours for evaluation and treatment, or for up-to 14 days and up-to 30 days for additional intensive treatment in "county-designated facilities." [WIC §5000, et seq.]

2) Permits a conservator of a person, or the estate, or of both the person and the estate, to be appointed for someone who is gravely disabled as a result of a MH disorder or impairment by chronic alcoholism, and who remains gravely disabled after periods of intensive treatment. [WIC §5350]

3) 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) A condition in which a person, as a result of a MH disorder, a severe substance use disorder, or a co-occurring MH disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care (referred to as "standard LPS conservatees"); or,
   b) A condition in which a person has been found mentally incompetent but can be restored to competence in a state hospital in the interests of justice, or are charged with specified offenses, and all of the following facts exist (referred to as "Murphy conservatees" [MCs]—a subset of the standard LPS conservatee population):
      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, a preliminary examination, or a grand jury indictment, and the complaint, indictment, or information has not been dismissed;

iii) As a result of a MH disorder, the person is unable to understand the nature and purpose of the proceedings taken against them and to assist counsel in the conduct of their defense in a rational manner; and,
iv) The person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder. [WIC §5008(h)(1)(A) and (B)]

4) Defines "designated facility," "facility designated by the county for evaluation and treatment," or "facility designated by the county to provide intensive treatment" as a facility that meets designation requirements established by the Department of Health Care Services (DHCS), including, but not limited to:
   a) Psychiatric health facilities; psychiatric residential treatment facilities; and MH rehabilitation centers licensed by DHCS, or provider sites certified by either DHCS or a MH plan to provide crisis stabilization;
   b) General acute care hospitals; acute psychiatric hospitals; and chemical dependency recovery hospitals licensed by the California Department of Public Health (CDPH); and,
   c) Hospitals operated by the U.S. Department of Veterans Affairs. [WIC §5008(n)(1)(A)-(H)]

5) Requires a county district attorney, at any judicial proceeding related to community MH services, to present allegations that a person is a danger to self or others, or gravely disabled as a result of mental disorder or impairment by chronic alcoholism, unless the board of supervisors, by ordinance or resolution, delegates such duty to the county counsel. [WIC §5114]

6) Requires the officer providing conservatorship investigation to investigate all available alternatives to conservatorship, including, but not limited to, assisted outpatient treatment, and the Community Assistance, Recovery, and Empowerment (CARE) Act and to recommend conservatorship to the court only if no suitable alternatives are available. Requires the officer to render to the court a report prior to the hearing. Requires a copy of the report to be transmitted to the individual who originally recommended conservatorship; to the person or agency, if any, recommended to serve as conservator; and, to the person recommended for conservatorship. Permits the court to receive the report in evidence and consider the contents in rendering its judgment. [WIC §5354(a)]

7) Requires a conservator to place their MC in various settings, including in a placement that achieves the purposes of treatment of the conservatee and protection of the public. [WIC §5358(a)(1)(B)]

8) Requires first priority for MCs to be placement in a facility that achieves the purposes of treatment of the conservatee and protection of the public. Requires the court to determine the most appropriate placement for the conservatee. Requires the court to also determine those persons to be notified of a change of placement, and additionally require the conservator to notify the district attorney or attorney representing the originating county prior to any change of placement. [WIC §5358(c)(2)]

This bill:

1) Requires the Department of State Hospitals (DSH) to prioritize MCs' placement in a state hospital over the other standard LPS conservatees.

2) Requires a person's "grave disability" to be evaluated outside of an incarcerated setting. Prohibits the fact that the person has temporary access to food, clothing, shelter, personal safety, and necessary medical care while incarcerated to be a basis to conclude that they are able to provide for their basic personal needs.

3) Requires a person's "ability to be nonviolent" to be evaluated outside of an incarcerated setting. Prohibits the fact that the person has not had an overt act of violence while incarcerated to be a basis to conclude that the person does not represent a substantial danger of physical harm to others.

4) Adds district attorneys to the list of entities who receive a copy of the conservatorship investigation report required to be rendered to the court, if an investigation was initiated for a defendant returned to the court who has not had competency restored.

5) Permits a district attorney to be present at all hearings to represent public safety interests, such as to provide the court input about the placement, interim placement, and transfer of a MC; to review all filed documents regarding the investigation, initiation, termination, or modification of conservatorship for MCs and provide input to the court about appropriate placement or interim placement; and, to challenge the recommendation of the public conservator after the conservatorship investigation for an abuse of discretion in a contested hearing before a judge. Requires the district attorney to have the burden of proof.

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

COMMENTS:

1) *Author's statement.* According to the author, this bill responds to the decision issued in *In re Lerke* (2024) 107 Cal.App.5th 685. In Lerke, the Fourth Appellate District announced that MCs cannot be temporarily housed at a county detention facility pending delivery to a state hospital. The Lerke decision seriously jeopardized public safety by eliminating the conservator's ability to house individuals at a county detention facility. Furthermore, victims and the public were distraught, confused, and angry with a system where there was no transparency or representative of public safety present that would explain the process. Within weeks of the Lerke decision, victims, their families, and the public were faced with the prospect of charged murderers, rapists, and arsonists on MCs being released into the community because state hospital beds were not available. Despite a legislatively defined role that provides for district attorneys to represent victims and public safety they were denied access to these hearings across the state, including in San Diego County. As counties statewide struggled to find placements, weaknesses within the current statutes addressing MCs became apparent.

2) *In re Lerke decision.* Background information provided by the author's office states that after the *Lerke* decision, criminally charged, presently incompetent, mentally ill defendants who present current substantial risk of physical harm to others, and who are MCs under the LPS Act and temporarily housed at a county detention facility awaiting transfer to a state hospital, began petitioning for release from custody by citing the decision. Background information indicates that in the *Lerke* decision the court encouraged conservators to find interim placements for MCs, but in many counties, no such placements are readily available for this population, or for many people seeking MH treatment in the community, as they lack designated facilities equipped to handle MCs. Often, the only possible placement is in a privately operated facility, which can deny admission to individuals who can be physically

violent, resistant to psychotropic medication, and charged with violent felonies. A recent example is one faced by Sonoma County, which had been housing several MCs at the Main Adult Detention Facility while awaiting bedspace at state hospitals. Several of those individuals were charged with murder—for instance: a man dragging and beating a woman into a coma, fleeing the scene with the woman's body, and ultimately being detained by law enforcement; and, a man stabbing another man to death along a major thoroughfare in front of witnesses and expressing sexually violent themes during an interview and subsequent treatment. These individuals were awaiting placement at either a state hospital or other designated facilities. All faced several rejections from private facilities and a lengthy state hospital waitlist. The victims and public were excluded during proceedings in these cases, and their representative faced barriers in entering the courtroom to discuss placement.

3) *LPS Act involuntary detentions.* 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 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 MH 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. Throughout this process, existing law requires specified entities to notify family members or others identified by the detained individual of various hearings, where it is determined whether a person will be further detained or released, unless the detained person requests that this information is not provided. Additionally, a person cannot be found 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. A person can also be released prior to the end of intensive treatment if they are found to no longer meet the criteria or are prepared to accept treatment voluntarily.

4) *Treatment beds in California.* According to a 2022 RAND report based on 2021 information, the most recent report on inpatient psychiatric bed capacity, California needs 50.5 inpatient psychiatric beds per 100,000 adults: 26.0 per 100,000 at the acute level and 24.6 per 100,000 at the subacute level, or 7,945 and 7,518 beds, respectively. At the community residential level, the estimated need is 22.3 beds per 100,000 adults. RAND estimated that California has a total of 5,975 beds at the acute level (19.5 per 100,000 adults) and 4,724 at the subacute level (15.4 per 100,000 adults), excluding state hospital beds. If state hospital beds are included, these figures increase to 7,679 (25.1 per 100,000 adults) and 9,168 beds (29.9 per 100,000 adults), respectively. RAND also observed large regional variation. For example, excluding state hospitals, acute bed capacity ranged from 9.1 beds per 100,000 adults in the Northern San Joaquin Valley to 27.9 beds per 100,000 adults in the Superior county region. For subacute bed capacity, regional estimates ranged from 7.4 to 31.8 beds per 100,000 adults. At the community residential level, RAND estimated that California has a total of 3,872 beds (12.7 per 100,000 adults). California has a shortfall of

approximately 1,971 beds at the acute level (6.4 additional beds required per 100,000 adults) and a shortage of 2,796 beds at the subacute level (9.1 additional beds required per 100,000 adults), or 4,767 subacute and acute beds combined, excluding state hospital beds. If state hospitals were included in this estimate, the shortage of acute inpatient beds would shrink to 267, and there would be no observable shortage in beds at the subacute level. Separately, RAND estimated a shortage of 2,963 community-based residential beds.

5) *California State Auditor's (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 (LAC), San Francisco, and Shasta):
   a) Criteria for involuntary detention for those who are a danger to self or others or gravely disabled, due to a MH condition, and criteria for conservatorship, and whether the counties have consistently followed those criteria;
   b) Differences in approaches among the counties in implementing the LPS Act, if any;
   c) Funding sources, and whether funding is a barrier to implementing the LPS Act; and,
   d) Availability of treatment resources in each county.

   Relative to this bill, the CSA noted that individuals waiting for admission to a state hospital sometimes receive inadequate levels of care while they wait. A review of LAC's records found that while individuals were waiting for placement at a state hospital, they most often received their care in general acute hospitals or similar treatment facilities. However, those records demonstrate that in several instances, these lower levels of care created risk for both the waitlisted individuals and the staff of the facilities. For example, in one case, an individual exhibiting repeated self-injurious behavior was referred to a state hospital. While waiting for an available state hospital bed, they were taken off the state hospital facility referral list and admitted to a private facility. During their stay at the private facility, they engaged in additional self-injurious behavior, requiring several emergency room visits at a general hospital. Because of this behavior, the private facility would not readmit that individual to its care, so they remained at the general hospital. They were placed back on the state hospital's waitlist, and the state hospital eventually admitted the individual three months after the second referral and five months after the initial referral. The CSA noted this case and others demonstrate that while individuals wait for space at a state hospital, they may not receive care that fully protects them or others around them. One issue that exacerbates the long waitlist, as the CSA noted, is that there is a mandate to place the incompetent to stand trial population in a state hospital within 60 days of commitment, which has resulted, by the 2020 LPS report, in 88% of DSH patients being actively involved in the criminal justice system. In contrast, about 12% of DSH patients were standard LPS conservatees, which includes MCs. The CSA further noted that although DSH had allocated some additional beds for individuals receiving their care through the LPS Act, it projected that the waitlist for the standard LPS conservatee population will continue to grow.

6) *Double referral.* This bill is double referred. Should it pass out of this Committee, it will be referred to the Senate Committee on Rules.

7) *Prior legislation.* SB 820 (Stern, Chapter 330, Statutes of 2025), among other things, prohibits a person's temporary access to food, clothing, and shelter, while transferred to a 72-hour facility for treatment and evaluation, from being a basis to conclude that the person is able to provide for their basic personal needs.

8) *Support.* Supporters of this bill, largely district attorneys, state that the court decision created chaos throughout California and public conservators in many counties scrambled to temporarily place defendants charged with (and some convicted of) murder, rape, and arson who were MCs and were held on an interim basis at a county detention facility. The most dangerous incompetent, non-restorable defendants were being quickly moved subject to this legal change without transparency for victims or the public because both the public and the district attorney were excluded from these proceedings, creating fear and distrust amongst the public. California District Attorneys Association says this bill addresses the issues created by the *Lerke* decision by requiring DSH to prioritize MCs because they pose a significant and serious risk of harm to the public above other conservatees who have not been found to be currently dangerous. Also, this bill clarifies the district attorney's role as an independent voice for public safety during MCs' hearings. The district attorney provides an essential voice for victims and public safety by providing information regarding risk and dangerousness to courts to complement the public conservator's investigation and conclusions. This bill fixes the issues that became apparent to victims and the public after the *Lerke* decision upended the interim placement for MCs.

9) *Opposition.* The County Behavioral Health Director's Association (CBHDA) writes in opposition and details the process for MCs, stating that it begins in the criminal court, but when an individual is determined to be unlikely to regain competency in the foreseeable future, the criminal court dismisses the charges and refers the matter to the public guardian or public conservator. CBHDA and other opponents, who represent the interest of those with MH conditions, argue that this creates new challenges by restricting counties' ability to hold an MCs in a carceral setting pending finding a suitable treatment provider, which has created significant challenges for local public guardians and behavioral health departments. Opponents are specifically concerned that this bill would insert the local district attorney into all LPS civil commitment hearings, whether criminal charges are involved in the case or not, and grant DAs access to sensitive and confidential patient information, fundamentally altering the nature of LPS conservatorships by including a distinctly criminal court element to what is otherwise a civil court process. Disability Rights California (DRC) adds this would drastically change what individuals are willing to disclose during conservatorship investigations because they would reasonably fear that any statements they make during an investigation could be misconstrued and used against them in the future. Opponents further oppose the requirement for DSH to prioritize beds for MCs. CBHDA says this requirement would remove discretion from the state hospitals to determine how best to manage their scarce, but important resource, and urge the state to consider requiring standard reporting on the number of MCs currently with annual updates, as no statewide data exists on the number of MC. Cal Voices argues that prioritizing MCs could create inequities in care, delaying timely interventions for LPS conservatees who may need immediate treatment, and these delays can worsen MH conditions, leading to more emergency room visits and potential hospitalizations. Prioritizing MCs raises serious questions about fairness in access to MH services, as every person, regardless of their conservatorship type, deserves equal treatment and timely care. DRC says this would severely disrupt the bed allocation system DSH, CalMHSA, and counties carefully collaborated to develop, and one consequence is that there is a real possibility many LPS conservatees will fall back into cycles of homelessness, disengagement from services, law enforcement contact, and criminal legal system involvement that the state intends to curtail.

10) *Policy concerns.*
   a) Information provided by the author's office indicates that, in a small number of instances, courts have determined that individuals do not meet grave disability criteria because their personal basic needs were being provided to them in an incarcerated setting. Current law states that, as a result of a MH disorder, an individual is gravely disabled when *they are unable to provide for their basic personal needs.* Adding clarification for the above small number of instances in a definition that pertains to the entire standard LPS population may present unintended challenges. This provision appears to be most appropriate in LPS law outlining the conservatorship process.
   b) Additional information provided by the author's office indicates that since the *Lerke* decision, counties have struggled to place MCs in the other various types of designated facilities approved to treat those who move through the LPS Act continuum—particularly because of the nature of their crimes. However, it appears that for the majority of counties with MCs, the issue may mostly lie with larger counties. Opponents argue that there are too few state hospital beds and long waitlists already to propose prioritizing one populating vying for the beds over another, which could lead to the rest of the standard LPS conservatees having even fewer placement options and an even longer waitlist for a state hospital placement, if it's determined DSH is the only option for them.

11) *Amendments.* To address the policy concerns, the author may wish to consider the following amendments:
   a) Move the provision prohibiting a grave disability determination from being made based on an individual being provided basic personal needs while incarcerated from the definitions section of the LPS Act to the provisions that set forth the process for investigating conservatorship;
   b) Specify that, in counties with a population size of greater than 500,000, prioritization may be considered for MCs for placement in a state hospital when it's determined that a specified percentage of MCs are on a waitlist; and,
   c) Make necessary clarifications in the entire bill to ensure that, other than amendment a), the bill's provisions apply only to MCs since that's the population of conservatees that have raised the various concerns that prompted this bill. Any concerns raised regarding this population will be analyzed and addressed by the Senate Committee on Public Safety.

SUPPORT AND OPPOSITION:

Support: California District Attorneys Association
California State Association of Psychiatrists
California State Sheriffs' Association
Office of the Los Angeles County District Attorney
Office of the Riverside County District Attorney
Office of the San Diego County District Attorney

Oppose: American Civil Liberties Union California Action
Cal Voices
California Youth Empowerment Network
California Public Defenders Association
County Behavioral Health Directors Association
Disability Rights California
Mental Health America of California

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