**SENATE JUDICIARY COMMITTEE**
**Senator Thomas Umberg, Chair**
**2021-2022 Regular Session**

AB 2275 (Wood)
Version: June 13, 2022
Hearing Date: June 28, 2022
Fiscal: Yes
Urgency: No
AWM

## SUBJECT

Mental health: involuntary commitment

## DIGEST

This bill imposes enhanced reporting requirements relating to the implementation and efficacy of the Lanterman-Petris-Short (LPS) Act and provides procedural protections for individuals awaiting treatment while detained on a 72-hour hold under the LPS Act.

## EXECUTIVE SUMMARY

The California Legislature has long sought to achieve the right balance between providing for the safety and well-being of those suffering from severe mental illness, those who are seen as gravely disabled or at risk of harming themselves or others, and recognizing their inherent due process and civil rights. In the 1960s, the Legislature enacted the LPS Act to develop a statutory process under which individuals could be involuntarily held and treated in a mental health facility in a manner that safeguarded their constitutional rights.

Due to the growing mental health and homelessness crises in California, there have been a number of efforts over the years to reform the LPS Act, which allows for involuntary detainment and conservatorship of individuals who are unable to care for themselves. This bill is intended to address two shortcomings with the current implementation and interpretation of the LPS Act. First, it will enhance existing data reporting requirements to develop a comprehensive understanding of the LPS Act's implementation statewide. Second, it will add due process requirements mandating that individuals detained under an initial, 72-hour hold are entitled to a certification review hearing within seven days of confinement or may seek judicial review.

This bill is sponsored by the author and supported by the California Council of Community Behavioral Health Agencies, the Depression and Bipolar Support Alliance,

and Disability Rights California. There is no known opposition. This bill was passed by the Senate Health Committee with a 9-0 vote.

## PROPOSED CHANGES TO THE LAW

Existing law:

1) Establishes the LPS Act, which provides for the involuntary detention for treatment and evaluation of people who are gravely disabled or are a danger to self or others. (Welf. & Inst. Code, div. 5, pt. 1, §§ 5000 et seq.)

2) Defines "grave disability" as a condition in which a person, as a result of a mental disorder, or impairment by chronic alcoholism, is unable to provide for the person's basic personal needs for food, clothing, or shelter. (Welf. & Inst. Code, § 5008(h)(1)(A), (2).)
    a) When applying the definition of a mental disorder for purposes of, among other things, a 14-day involuntary hold, the historical course of the person's medical disorder be considered; "historical course" is defined to include evidence presented by persons who have provided, or are providing, mental health or related support services to the patient, the patient's medical records as presented to the court, including psychiatric records, or evidence voluntarily presented by family members, the patient, or any other person designated by the patient. (Welf. & Inst. Code, § 5008.2.)

3) Establishes a series of escalating detentions for involuntary treatment of a person who meets the criteria above, which may culminate in a renewable 1-year conservatorship for a person determined to be gravely disabled. Specifically:
    a) If a person is gravely disabled as a result of mental illness, or a danger to self or others, then a peace officer, staff of a designated treatment facility or crisis team, or other professional person designated by the county, may, upon probable cause, take that person into custody for a period of up to 72 hours for assessment, evaluation, crisis intervention, or placement in a designated treatment facility (known as a "5150 hold"). (Welf. & Inst. Code, § 5150.)
    b) A person who has been detained for 72 hours may be further detained for up to 14 days of intensive treatment if the person continues to pose a danger to self or others, or to be gravely disabled, and the person has been unwilling or unable to accept voluntary treatment. (Welf. & Inst. Code, § 5250.)
    c) After the 14 days, a person may be detained for an additional 30 days of intensive treatment if the person remains gravely disabled and is unwilling or unable to voluntarily accept treatment. (Welf. & Inst. Code, §§ 5260, 5270.15.)
    d) A court may order an imminently dangerous person to be confined for further inpatient intensive health treatment for an additional 180 days, as provided. (Welf. & Inst. Code, § 5366.1.)

4) Allows Saturdays, Sundays, and holidays to be excluded from the calculation of the time limit on the 72-hour hold in 3)(a) if DHCS certifies for each facility that evaluation and treatment services cannot reasonably be made available on those days. (Welf. & Inst. Code, § 5151.)

5) Requires, prior to admitting a person to a facility for treatment and evaluation, the professional person in charge of the facility or a designee to assess the individual, either face-to-face or by synchronous interaction through telehealth, to determine the appropriateness of the involuntary detention. (Welf. & Inst. Code, § 5151.)

6) Requires a certification review hearing to be held within four days of the date on which a person is certified for a 14-day period of intensive treatment or 30 additional days of intensive treatment unless judicial review has been requested or a postponement is requested by a person or their attorney or advocate. (Welf. & Inst. Code, § 5256.)

7) Provides every person detained by certification for intensive treatment with a right to a hearing by writ of habeas corpus for their release and enumerates specified requirements and procedures for judicial review. (Welf. & Inst. Code, §§ 5275, 5276.)

8) Provides that, at the end of a 30-day detention for intensive treatment, the person must be released unless:
    a) The person agrees to receive further treatment on a voluntary basis;
    b) The patient is the subject of a conservatorship petition, as set forth in 6); or
    c) The patient is the subject of a petition for postcertification treatment of a dangerous person pursuant to article 6 of part 1 of division 5 of the Welfare and Institutions Code. (Welf. & Inst. Code, § 5270.35(b).)

9) Provides that a person in charge of a facility providing a 5150 hold or 14- or 30-day involuntary detention for intensive treatment may recommend an LPS conservatorship for the person treated when the person being treated is unwilling or unable to accept voluntary treatment; if the county conservatorship investigator agrees, the county must petition the superior court to establish an LPS conservatorship. (Welf. & Inst. Code, §§ 5350 et seq.)
    a) If, while a petition for a full LPS conservatorship is pending, the investigating officer recommends a "temporary conservatorship" until the petition is ruled on the court may establish a temporary conservatorship of no more than 30 days, until the point when the court makes a ruling on whether the person is "gravely disabled." (Welf. & Inst. Code, § 5352.1.)

10) If a conservatorship referral was not made during the 14-day period and it appears during the 30-day period that the person is likely to require the appointment of a conservator, the referral for a conservatorship must be made to allow sufficient time for conservatorship investigation and other related procedures.

a) If a temporary conservatorship is obtained pursuant to the pending petition, the temporary conservatorship period must run concurrently with the 30-day intensive treatment period, not consecutively.
b) The maximum involuntary detention period for gravely disabled persons pursuant to the 5150 hold and the 14-day and 30-day intensive treatment detentions is 47 days. (Welf. & Inst. Code, § 5270.55.)

11) Requires an officer providing a conservatorship investigation to investigate all available alternatives to conservatorship and recommend conservatorship to the court only if no suitable alternatives are available and to render to the court a comprehensive written report containing all relevant aspects of the person's medical, psychological, financial, familial, vocational, and social condition, information concerning the person's property, and information obtained from the person's family members, close friends, social worker, or principal therapist. If the officer recommends against conservatorship, they must set forth all alternatives available. (Welf. & Inst. Code, § 5354(a).)

12) Requires the court to appoint a public defender or other attorney for the proposed conservatee within five days after the petition is filed. (Welf. & Inst. Code, § 5365.)

13) Provides that a person for whom an LPS conservatorship is sought has the right to demand a court or jury trial on the issue of whether they are gravely disabled. (Welf. & Inst. Code, § 5350(d).)

14) Provides that, for purposes of establishing a conservatorship, a person is not "gravely disabled" if they can survive safely without an involuntary detention with the help of responsible family members or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, and shelter, and these persons have specifically indicated their willingness and ability to provide such help. This limitation does not apply to a person who was found incompetent to stand trial under Penal Code section 1370, as specified. (Welf. & Inst. Code, §§ 5008(h)(1)(B), 5350(e).)

15) Allows antipsychotic medication to be administered to any person subject to specified detentions under the LPS Act if that person does not refuse that medication or if the treatment staff have considered and determined that treatment alternatives to involuntary medication are unlikely to meet the needs of the patient and a court determines that the person lacks capacity to make medical healthcare decisions, as specified. (Welf. & Inst. Code, §§ 5332, 5334, 5336.)

16) Requires DHCS to collect and publish annually quantitative information concerning the operation of the LPS Act, including, for each county, the number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment; the number of

persons transferred to mental health facilities from a detention facility, the number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established.
   a) Information published in these reports must not contain patient name identifiers and must contain statistical data only.
   b) DHCS must make the reports available to professional groups involved in the implementation of the LPS Act. (Welf. & Inst. Code, § 5402(a), (c), (d).)

17) Requires each local mental health director, and each facility providing services to persons pursuant to the LPS Act, to provide DHCS, upon its request, with any information, records, and reports DHCS deems necessary to collect and publish information concerning the operation of the LPS Act. Prohibits DHCS from having access to any patient name identifiers. (Welf. & Inst. Code, § 5402(b).)

18) Requires all information and records obtained in the course of providing services under the LPS Act and other specified mental health services provisions to recipients of services to be confidential except under specified conditions, including for the purposes of research reviewed by the appropriate institutional review board. (Welf. & Inst. Code, § 5328(a).)

19) Defines "advocacy" under the LPS Act as activities undertaken on behalf of persons who are receiving, or have received, mental health services to protect their rights or to secure or upgrade treatment or other services to which they are entitled. Defines "county patients' rights advocate" as an advocate appointed, or contracted by, a local mental health director. (Welf. & Inst. Code, § 5500.)

This bill:

1) Makes findings and declarations relating to the lack of information and data on the efficiency of the LPS Act in treating individuals with mental illness, and that better information and data are needed on an ongoing basis to properly oversee the LPS Act and determine what changes are necessary to best support, serve, and treat those suffering from mental illness.

2) Provides that a 72-hour hold under the LPS Act begins at the time when the person is first detained.

3) Requires a facility to which a person is involuntarily detained under a 72-hour LPS Act hold is transported to notify the county patients' rights advocate if the person has not been released within 72 hours of the involuntary detention.

4) Provides that a facility designated by the county for evaluation and treatment may detain a person for evaluation and treatment under a 72-hour hold under the LPS Act from the time the detention began.

5) Provides, when a person has been certified for intensive treatment under a 15-day or 30-day hold under the LPS Act, or detained in a 72-hour hold under the LPS Act and remains detained, a certification review hearing must be held within 7 days of the date on which the person was initially detained unless judicial review is requested or postponed by the person or their attorney.

6) Expands the right of a person being detained to seek a writ of habeas corpus for their relief to a person being detained under any type of detention under the LPS Act.

7) Provides that information and records obtained in the course or providing services under specified statutory regimes, including the LPS Act, may be disclosed to the State Department of Health Care Services, the Mental Health Services Oversight and Accountability Commission, and other entities designated by statute charged with collecting data and publishing reports, provided that the data is protected through specified means, including through anonymization.

8) Establishes that, if a court or jury trial on whether a person for whom conservatorship is sought is gravely disabled does not commence within 10 days of demand for the court or jury trial, the failure to commence the trial within that period of time is grounds for dismissal of the conservatorship proceedings.

9) Specifies that, when an officer providing a conservatorship investigation under the LPS Act recommends either for or against conservatorship to the court, the officer must set forth all alternatives available to conservatorship, including all less restrictive alternatives.

10) Requires DHCS to publish by January 1 of each year information concerning the operation of the LPS Act and other programs set forth in Division 4 of the Welfare and Institutions Code from the previous fiscal year. Requires DHCS to provide a copy of the report to the Senate and Assembly Committees on Health and Judiciary and to the Mental Health Services Oversight and Accountability Commission by January 1 of each year.

11) Requires the report in 10) to include:
    a) The number of persons detained, and the number of instances in which a person was detained, for specified holds and conservatorships under the LPS Act, including 72-hour holds, in each county;
    b) The reasons for 72-hour evaluation and treatment as recorded on the forms provided to detained individuals;
    c) The number and outcomes of specified judicial proceedings and petitions pursuant to the LPS Act in each superior court;
    d) Whether each person reported above has private insurance, Medicare, Medi-Cal, or is uninsured;

e) The number of persons detained either once, between two and five times, between six and eight times, and greater than eight times for each type of detention;
f) The number of persons detained, and the number of instances in which an individual was detained, pursuant to a 72-hour hold for longer than 72 hours beginning from the time the person was first detained;
g) Statistics on where each person was placed immediately following the termination of each hold and conservatorship under the LPS Act. Specifies that placements include transition to a higher level of care, independent living in the person's own house or apartment, community-based housing, community-based housing with services, shelter, and no housing; and
h) An analysis stratifying the data in (a) – (g) above by county, and, if known, by race, ethnicity, gender identity, age group, veteran status, housing status, and Medi-Cal enrollment status, if known.
i) For any information required in (a)-(g) that is not included in the report, an explanation for why that information was not provided, including whether the unreported information is due to unreported data from a local mental health director or DHCS's deidentification guidelines.

12) Requires each facility designated by the county for treatment or evaluation that detains or provides services to persons and each professional person designated by the county for the purpose of assessment or evaluation under the LPS Act to, on a quarterly basis with the final quarterly report occurring no later than August 1 of each year, provide the local mental health director of the county in which they operate with any information, records, and reports from the previous fiscal year that DHCS deems necessary for the purposes of the report in 10).

13) Authorizes a local mental health director to, after notice and an opportunity for comment, revoke the designation status of an individual or facility for noncompliance with 10).

14) Requires each local mental health director to provide to DHCS, by October 1 of each year, with any information, records, and reports from the previous quarter that DHCS deems necessary for the purposes of the report in 10). Prohibits DHCS from having access to any patient name identifiers.

15) Authorizes DHCS to establish a system that encourages full reporting for the imposition of civil sanctions against counties in violation of 14), provided the system has due process protections for the counties. If DHCS determines that there is or has been a substantial failure by a local mental health director to comply with 14), the Director of Health Care Services may impose sanctions which shall first require a corrective plan and may lead to a fine not to exceed $5,000 per violation.

16) Requires Judicial Council to provide DHCS, by October 1 of each year, the data from each superior court the DHCS deems necessary to complete the report described in 10), including provided specified information relating to certification review hearings, petitions for writs of habeas corpus, petitions for capacity hearings, and capacity hearings. DHCS shall not have access to patient name identifiers.

17) Provides that information provided pursuant to 10)-16) shall not contain patient name identifiers or information that would otherwise allow an individual to link the published information to a specific person.

18) Requires the Mental Health Services Oversight and Accountability Commission (MHSOAC) to, by May 1 of each year, publish and provide a report that includes:
    a) An analysis and evaluation of the efficacy of the mental health assessments, detentions, treatments, and supportive services provided under the LPS Act and subsequent to release;
    b) Recommendations for improving mental health assessments, detentions, treatments, and supportive services provided both under the LPS Act and subsequent to release;
    c) An assessment of the disproportionate use of detentions and conservatorships on various groups, including an assessment of use by race, ethnicity, gender, identity, age group, veteran status, housing status, and Medi-Cal enrollment status, at county, regional, and state levels; and
    d) Beginning with the report due October 1, 2024, the progress that has been made on implementing recommendations from prior reports.

19) Permits the MHSOAC, in preparing the report in 18), to consult with specified stakeholders involved with mental health issues and groups that advocate on behalf of those with mental health disorders.

20) Permits the MHSOAC to contract with an independent entity with sufficient expertise in the area to assist with the preparation of the report in 18).

21) Requires DHCS to securely submit copies of the following to MHSOAC in order to prepare the report in 18):
    a) All data, reports, and information on the implementation of the LPS Act gathered pursuant to requirements in 10)-17); and
    b) Additional data, reports, and information that MHSOAC deems necessary to prepare the report.

22) Makes nonsubstantive technical and conforming changes.

## COMMENTS

1. Author's comment

According to the author:

> The past several years have seen an intensified focus on the LPS Act and its effectiveness in serving the most seriously mentally ill among us. The dramatic increase in substance use and homelessness has only exacerbated the concern that our systems of treatment and care are failing to adequately and appropriately serve our citizens most in need. Attempts to modify or expand the LPS Act have grown exponentially year by year with little consensus being obtained around what is truly in the best interest of the people the LPS Act is intended to serve. At the center of this issue is the nexus of how to provide involuntary care or treatment while at the same time ensuring that individuals' civil liberties are not violated. In December of 2021, a joint hearing by the Assembly Health and Judiciary Committees revealed that there is significant room for improvement in the LPS system. The hearing also noted that there is a significant lack of consistency in implementing the act across the state. However, in trying to discern where to begin to improve the LPS Act, it was revealed that there is little or no data upon which to base improvements to the system. This bill provides some clarity around the most fundamental aspects of the LPS Act such as "when does a hold begin" and when do due process entitlements begin. Secondly, this bill establishes a framework for meaningful data collection beyond those that currently exist.

2. The LPS Act and California's mental health crisis

For individuals who are unable to care for themselves, the LPS Act enumerates a process whereby individuals may be involuntarily detained and potentially conserved for evaluation and care.[1] The LPS Act was passed in 1967 as part of a wave of deinstitutionalization reforms recognizing the rights of individuals detained in state hospitals. Prior to its passage, state hospitals were used to detain individuals who lacked support, such as the mentally ill, disabled, and the elderly, sometimes for life and with minimal due process protections.

The goals of the LPS Act were to provide due process protections to individuals detained and to shift care to the private sector and to less restrictive, community-based facilities. The LPS Act provides for involuntary commitment for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met.[2] If an individual has not stabilized after the temporary holds, the LPS Act authorizes the

[1] Welf. & Inst. Code, div. 5, pt. 1, §§ 5000 et seq.
[2] *Id.*, §§ 5150 et seq.

establishment of an LPS conservatorship.[3] A person can be involuntarily medicated at any point in this process if a court finds that the individual lacks capacity to make medical healthcare decisions.[4]

However, though state hospitals closed, an adequate system of community-based facilities never fully materialized. As a result, California has a rising number of residents struggling with mental illness and addiction but inadequate community services to provide meaningful assistance to avoid cycling through LPS Act holds and conservatorships repeatedly. Indeed, California does not even have adequate facilities to house the persons detained under the LPS Act: the number of impatient psychiatric beds has declined since 1995 despite a growing population and increasing rates of mental illness;[5] the behavioural health workforce is insufficient to meet the demand for mental health care;[6] and there is a shortage of supportive housing and wraparound services to serve the needs of persons with mental illness who are also homeless. The result is that persons may receive repeated involuntary acute care without having meaningful options for stabilization and a path to long-term independence.

In 2020, the California State Auditor issued a report on the implementation of the LPS Act, which sets forth the results of an audit conducted at the direction of the Joint Legislative Audit Committee.[7] The report, *Lanterman-Petris-Short Act: California Has Not Ensured That Individuals With Serious Mental Illnesses Receive Adequate Ongoing Care* (the Auditor's Report), concluded that there were "significant issues" preventing the state from adequately caring for Californians with serious mental illnesses.[8] The auditor identified several structural problems preventing states and counties from providing that care, including a shortage of treatment beds for persons in need of specialized care, counties' failure to consistently follow up with continuing care for persons who are released from LPS holds, and a lack of reporting on the implementation of the LPS Act and other mental health initiatives to the point that "policymakers and other stakeholders do not have the information they need to understand the extent to which [funds appropriated for treating persons with mental illnesses] affect people's lives."[9] The Report made several recommendations to resolve these shortcomings, such as requiring the DHCS to obtain daily information about the availability of beds in health care facilities and requiring counties to connect persons who have left LPS Act holds with community-based programs that would benefit them.[10]

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[3] *Id.*, §§ 5350 et seq.
[4] *Id.*, §§ 5332, 5334, 5336.
[5] California Hospital Association, *California Psychiatric Bed Annual Report* (Aug. 2018).
[6] Coffman, *et al., California's Current and Future Behavioral Health Workforce*, Healthforce Center at the University of California – San Francisco (Feb. 2018) p. 55.
[7] Auditor for the State of California, Report 2019-119, *Lanterman-Petris-Short Act: California Has Not Ensured That Individuals With Serious Mental Illnesses Receive Adequate Ongoing Care* (Jul. 2020), at p. iii.
[8] *Id.* at p. 2.
[9] *Id.* at pp. 2-3.
[10] *Id.* at pp. 37, 65.

According to the author and sponsors of the bill, there is also a problem with 72-hour holds under the LPS Act being extended past the statutory time frame without any due process protections. They cite two practices pertaining to 72-hour holds that have resulted in individuals with mental illness being held for longer than 72 hours—sometimes for months—with no path towards a certification hearing or judicial review. One practice is a prolonged 72-hour hold in which a person is physically detained on a 72-hour hold but the start of the 72-hour clock is delayed, resulting in a person being physically detained for much longer than the 72 hours. In conversations with stakeholders, this appears to occur because of a mistaken interpretation of the statute that believes that the 72-hour period does not begin until an individual is brought to an appropriate facility for assessment, even if they are actually detained before that time. A second practice is the use of stacked, or serial, 72-hour holds, in which a person is repeatedly detained under a new hold when the expiration of a previous 72-hour hold approaches. This practice traps a person in a series of 72-hour holds, depriving them of a path towards due process.

3. Implementation and oversight of LPS Act

Oversight of the LPS Act is under DHCS, which adopts the rules, regulations, and standards necessary for implementation. DHCS must consult with the County Behavioral Health Directors Association of California (CBHDA), the California Behavioral Health Planning Council, and the Office of the Attorney General in developing these rules, regulations, and standards. DHCS is required to collect and publish an annual report of the number of detentions and conservatorships in each county.[11]

The counties also have oversight responsibilities. The LPS Act provides that each county may designate facilities, other than hospitals or clinics, as 72-hour evaluation and treatment facilities and as 14-day intensive treatment facilities if these facilities meet DHCS requirements. The terms "designated facility" or "facility designated by the county for evaluation and treatment" mean facilities that are licensed or certified as a mental health treatment facility or a hospital. In practice, some counties also designate persons who may operate in a non-designated facility. While peace officers and other authorized persons are required to take a detained individual first to a designated facility, they may, if no designated facility exists transport individuals to a non-designated facility, which is also any facility participating in Medicare that is therefore required by federal Emergency Medical Treatment and Active Labor Act (EMTALA) laws to provide medical services to any individual who shows up requiring medical attention (*i.e.*, acute care hospitals).

[11] Welf. & Inst. Code, § 5402.

4. This bill reforms the LPS Act by clarifying the 72-hour hold timeframe, providing procedural protections, and requiring annual reports on the implementation of the LPS Act, as specified

This bill does not seek a comprehensive overhaul of the LPS Act—arguably, the lack of clear data on the use of and practices surrounding the LPS Act make a wholesale rehaul irresponsible. Instead, this bill makes targeted changes to the implementation of the LPS Act to ensure detained persons are provided with the necessary procedural protections, and imposes an annual reporting requirement that should provide the Legislature with some of the information necessary to reform the LPS Act more thoroughly in the future.

With respect to substantive changes to the LPS Act, this bill makes the modest clarification that a 72-hour hold under the LPS Act begins when the individual is first detained. This will help avoid situations where persons are held for longer than the statutorily provided period. The bill further provides that, when a person has been held on a 72-hour hold for longer than 72 hours, the facility holding the person must inform the county patients' rights advocate. The bill also adds procedural protections such as requiring a certification proceeding to review a detention after a person has been detained seven days and requiring a conservatorship investigator to address in their report all less-restrictive alternatives to conservatorship.

The other main component of the bill is the requirement that DHCS annually report to the Legislature and Judicial Council on the use of the LPS Act in the state. As noted above, the State Auditor found that the existing LPS Act reporting requirements are insufficient; so to enhance understanding of the LPS Act's implementation, this bill requires additional types of data to be reported to DHCS. The subject matter to be covered pursuant to this bill includes the number of people being held under multiple holds per year, the demographics of who is being held, and statistics on judicial proceedings and placements following a hold or detention. It also requires all treatment facilities to report this data to local behavioural health directors, regardless of whether they are LPS-designated, and for Judicial Council to provide data that DHCS needs to complete the report.

To strengthen oversight, this bill requires MHOAC to publish an evaluation of the efficacy of LPS mental health assessments, detentions, treatments, and services provided during a detention and after a person is released. The report must also issue recommendations for improving the implementation of the LPS Act. To strengthen accountability, beginning in 2024, the report must report on the progress that has been made on the recommendations provided in the report published the previous year.

5. Arguments in support

According to Disability Rights California, writing in support:

> AB 2275 clarifies that a 72-hour hold ("5150" or "5585") begins at the moment a person is detained. Our statewide advocacy shows significant inconsistency among counties as to when the 72-hour period begins. Some counties do not begin running the 72-hour clock until a person is actually admitted to an LPS-designated facility. When that occurs…many people on 5150 or 5585 holds statewide remain in hospital emergency departments for excessive periods of time while they wait for placement in LPS-designated facilities. The waiting time often comes unnecessarily close to 72 hours and sometimes exceeds the legally permitted maximum. This practice results in different treatment of similarly situated people placed on 5150 or 5585 holds across county lines, infringes on liberty by prolonging involuntary detentions, and prevents access to timely due process. The standardization by AB 2275 is long overdue…
>
> Currently, there is very little transparency about how many Californians are committed under the LPS Act, both on short-term holds and long-term conservatorships. This lack of information makes it all but impossible to hold accountable the patchwork of systems that serve people committed under the LPS Act. In addition, incomplete information about the statewide number of people funneled into the intensive, costly levels of care contemplated by involuntary treatment under the LPS Act makes it extremely difficult for the state and local jurisdictions to plan for appropriate care.
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> AB 2275's proposed changes to information collecting and reporting requirements will allow the State and counties to make data-driven decisions about how to allocate behavioral health resources. Importantly, the proposed changes, including collection of data about the numbers of people who cycle through multiple hospitalizations, as well as enumeration of discharge locations following involuntary holds, will lead to collection and analysis of data that will assist decisionmakers with making informed changes to existing systems.

**SUPPORT**

California Council of Community Behavioral Health Agencies
Depression and Bipolar Support Alliance
Disability Rights California

**OPPOSITION**

None received

## RELATED LEGISLATION

Pending Legislation:

SB 1416 (Eggman, 2022) expands the definition of "gravely disabled" within the LPS Act to include persons unable to provide for their basic needs for medical care or self-protection and safety, and defines a person unable to provide for those needs as person at risk of substantial bodily harm, dangerous worsening of any concomitant physical illness, serious psychiatric deterioration, of mismanagement of their basic needs that could result in substantial bodily harm. SB 1416 is pending before the Assembly Judiciary Committee.

SB 1238 (Eggman, 2022) requires the State Department of Health Care Services, in consultation with each council of governments, to determine the existing and projected need for behavioral health services, including AOT, for each region in a specified manner and would require, as part of that process, councils of governments to provide the department-specified data. SB 1238 is pending before the Assembly Appropriations Committee.

SB 1154 (Eggman, 2022) requires, by January 1, 2024, the State Department of Public Health, in consultation with DHCS and the State Department of Social Services, and by conferring with specified stakeholders, to develop a real-time, internet-based database to collect, aggregate, and display information about beds in inpatient psychiatric facilities, crisis stabilization units, residential community mental health facilities, and licensed residential alcoholism or drug abuse recovery or treatment facilities in order to facilitate the identification and designation of facilities for the temporary treatment of individuals in mental health or substance use disorder crisis. SB 1154 is pending before the Assembly Appropriations Committee.

SB 929 (Eggman, 2022) requires DHCS to collect and publish annually quantitative data relating to the LPS Act, including information relating to, among other things, the number of persons detained for 72-hour evaluation and treatment, clinical outcomes for individuals placed in each type of hold, services provided in each category, waiting periods, and needs for treatment beds, as specified. The bill would additionally require each other entity involved in implementing the provisions relating to detention, assessment, evaluation, or treatment for up to 72 hours to provide data to the department upon its request, as specified. SB 929 is pending before the Assembly Health Committee.

AB 2020 (Gallagher, 2022) authorizes a county to elect between two definitions of "gravely disabled" for the LPS Act: the definition currently in statute, or "a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, the person's own basic personal needs for food, clothing, or shelter without significant supervision and assistance from another person

and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of the person's essential needs that could result in bodily harm." AB 2020 is pending before the Assembly Health Committee.

SB 516 (Eggman, 2021) provides that a person's medical condition may be considered in determining their mental condition for purposes of certifying them for a 14- or 30-day involuntary detention for treatment and evaluation under the LPS Act. SB 516 is pending before the Assembly Health Committee.

Prior Legislation:

SB 1251 (Moorlach, 2020) would have expanded the housing conservatorship pilot program to all counties in the state on an opt-in basis. SB 1251 died in the Senate Judiciary Committee.

AB 2679 (Gallagher, 2020) would have expanded the housing conservatorship pilot program to allow the County of Butte to opt in. AB 2679 died in the Assembly Health Committee.

AB 2015 (Eggman, 2020), which was substantially similar to SB 516 (Eggman, 2021), would have expanded on the type of information that could be admitted at a hearing on the certification of a person for a 14-day or 30-day detention for intensive treatment, to include matters relating to the historical course of the person's mental illness and treatment compliance. AB 2015 died in the Senate Judiciary Committee.

AB 2156 (Chen, 2018) would have changed the definition of "gravely disabled" for LPS purposes to read, in part, a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, his or her own basic personal needs for food, clothing, shelter, or medical care without significant supervision and assistance from another person and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of his or her essential needs that could result in bodily harm. This bill died in the Assembly Health Committee.

AB 1971 (Santiago, 2018) would have expand the definition of "gravely disabled" in the LPS Act as implemented in the County of Los Angeles, until January 1, 2024, to also include a condition in which a person, as a result of a mental health disorder or chronic alcoholism, is unable to provide for his or her medical treatment if the failure to receive medical treatment results in a deteriorating physical condition or death; and defined "medical treatment" to mean the administration or application of remedies for a mental health condition, as identified by a licensed mental health professional, or a physical

health condition, as identified by a licensed medical professional. AB 1971 died on the Senate Floor.

AB 1539 (Chen, 2017) would have expanded the definition of "gravely disabled" similar to AB 1971 (Santiago, 2018). This bill died without a hearing in Assembly Health Committee.

**PRIOR VOTES:**

Senate Health Committee (Ayes 9, Noes 0)
Assembly Floor (Ayes 74, Noes 0)
Assembly Appropriations Committee (Ayes 16, Noes 0)
Assembly Judiciary Committee (Ayes 9, Noes 0)
Assembly Health Committee (Ayes 13, Noes 0)

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