



# COUNTY OF SONOMA

575 ADMINISTRATION  
DRIVE, ROOM 102A  
SANTA ROSA, CA 95403

## SUMMARY REPORT

---

**Agenda Date:** 12/12/2023

---

**To:** County of Sonoma Board of Supervisors  
**Department or Agency Name(s):** Department of Health Services  
**Staff Name and Phone Number:** Tina Rivera, 707-565-4774  
**Vote Requirement:** Majority  
**Supervisory District(s):** Countywide

**Title:**

Deferment of the Implementation of California SB 43 Changes to the Lanterman-Petris-Short Act

**Recommended Action:**

Adopt a resolution deferring changes made by California Senate Bill 43 (Regular Session 2023-2024) to Welfare & Institutions Code Section 5008 for the County of Sonoma to the date of January 1, 2026.

**Executive Summary:**

The Department of Health Services (hereinafter “DHS”, or “the Department”) for the County of Sonoma has joined the majority of counties within California in urging deferment of the implementation of SB 43, which was signed by Governor Newsom on October 10, 2023, as part of the 2023-2024 Regular Session, 2023 statutes, chapter 637. SB 43 promulgates significant changes to the state’s involuntary detention and conservatorship laws under the Lanterman-Petris-Short (LPS) Act starting January 1, 2024. Specifically, SB 43 expands the definition of gravely disabled to include a person who, as a result of a mental health disorder, a severe substance use disorder (SUD), or a co-occurring mental health disorder and a severe substance use disorder, or as a result of impairment by chronic alcoholism, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

SB 43’s expansion of the definition of grave disability will require a substantial development in treatment protocols, augmentation of the workforce, and significant increases to delivery networks, housing capacity, and models for locked treatment settings intended for involuntary SUD treatment in order to successfully meet the conservatorship needs of the population. While all these significant investments in behavioral health and conservatorship infrastructure is required by SB 43, additional fiscal support to pay for these requirements has not been identified by the state. The state pays nothing toward public guardians, funding for designated individuals to conduct assessments, or the Patient’s Rights Advocates needed to make determinations and conduct investigations and manage conservatorships. In fact, county behavioral health agencies are expected to fund this mandate within their existing resources.

There are currently 45 counties across California seeking to delay the launch of this major mental health law. Our county law enforcement and hospital partners are in strong support of this delay (Hospital Association letter attached). Department of Health Services as well as our law enforcement, emergency medical service providers, behavioral health organizations and hospital stakeholders support the objectives of SB 43. We are committed to working together in partnership to carry out these objectives, but we are concerned that the anticipated patient surge could challenge our collective behavioral health system.

More time is needed to identify resources for the proper implementation of SB 43. Deferring the implementation of SB 43 until January 1, 2026 will permit the state and its constituent counties to plan accordingly and operationalize the worthy objectives of SB 43. A pause in implementation would further allow regional and statewide workgroups to develop policies, plans, appropriate communication protocols. SB 43 allows counties to delay implementation until January 1, 2026 through adoption of a county board resolution.

**Discussion:**

SB 43 considerably changes the state's involuntary detention and conservatorship laws under the Lanterman-Petris-Short (LPS) Act by:

- Expanding the state's "gravely disabled" criteria to allow for the involuntary detention and conservatorship of individuals on the basis of a standalone "severe" substance use disorder or co-occurring mental health disorder and severe SUD;
- Expanding the definition of grave disability to include individuals who are unable to provide for their basic personal need for personal safety or necessary medical care;
- Defining "necessary medical care" to mean care that a licensed health care practitioner determines to be necessary to prevent serious deterioration of an existing medical condition which is likely to result in serious bodily injury if left untreated;
- Modifying hearsay evidentiary standards for conservatorship hearings in order to expand the array of testimony that can be submitted into conservatorship proceedings without requiring in-person cross examination; and
- Requiring counties consider less restrictive alternatives such as assisted outpatient treatment (AOT) and CARE Court in conducting conservatorship investigations.

SB 43 also expands reporting requirements to align with the new criteria and allows counties to delay implementation until January 1, 2026 through adoption of a county board resolution.

**Resources Needed for SB 43**

Counties will need to develop an extensive array of new policies, procedures, workforce, and treatment capacity in order to implement SB 43, which is detailed, in part, below. The County Behavioral Health Directors Association, or CBHDA, of California is conducting further analysis to understand the full scope of state and local secondary guidance and other changes that will be required to support full implementation. Because SB 43 has not come with dedicated state funding to support these expanded obligations, counties will need additional lead-time to arrange the staffing and resources necessary to support implementation.

By expanding LPS to capture any person who has a severe SUD, this change in policy would significantly expand the portion of the population potentially subject to detention and conservatorship under LPS from around 1% to around 10% of the population. For example, according to the California HealthCare Foundation (CHCF), 16% of young adults have a substance use disorder.

Under LPS, only peace officers and individuals designated by the county may, with probable cause, detain a person and take them into custody for an assessment. Counties will need to develop criteria for a "severe SUD" grave disability assessment, as no such assessment currently exists. Counties will need to develop criteria and policies, as well as protocols for designating individuals to perform severe SUD grave disability assessments. Counties will need to recruit and hire staff to perform severe SUD grave disability assessments.

Often, when a person is detained by law enforcement, they are taken to a hospital emergency department or a designated facility for an assessment. Because SB 43 expands LPS criteria to include an assessment of

whether an individual is unable to survive safely in community or provide for necessary medical care without involuntary detention, counties will need to develop policies and procedures for how these determinations will be made, along with qualified licensed health care providers. In addition, hospitals will be without qualified designated individuals to perform the assessments needed to remove involuntary holds, when appropriate, or recommend conservatorship when appropriate. CBHDA is concerned that in addition, because there is no locked treatment capacity for individuals with severe SUD, hospitals may be impacted by additional individuals who are boarding (awaiting placement) in the absence of this new treatment capacity.

Furthermore, there are very few treatment settings that have the capacity to serve individuals with complex co-occurring medical, SUD and mental health treatment needs. If conserved on the basis of a severe SUD, clinicians would have no way to determine when a conservatorship should end, since there are no clinical standards to determine when to end involuntary SUD treatment. By adding physical health conditions as a basis for conservatorship, the state would require counties to develop a new set of medical services to evaluate and assess physical health risks and status. However, under any LPS structure, counties would still only be able to treat the mental health or SUD needs of the individual which are within the county behavioral health system's scope.

#### **Fiscal Provisions for SB 43 Not Viable**

Federal and state governments provide no reimbursement for the increased, long-term residential and inpatient drug treatment under Medi-Cal that would ensue from the implementation of SB 43. The Drug Medi-Cal ODS waiver allows for limited Medi-Cal coverage (up to 30 days only) of these services. Moreover, commercial insurance plans often deny counties' requests for reimbursement for mobile crisis, crisis, and inpatient residential SUD treatment services.

If courts were to order involuntary SUD treatment, they would not be bound by what Medi-Cal or other insurance payers would cover, leaving counties with a significant unfunded mandate. This structural lack of reimbursement, across our major public and private insurance payers has directly led to the scarcity of SUD residential and inpatient treatment capacity. Addressing reimbursement for involuntary long-term inpatient and residential care, which would not be reimbursed through Medi-Cal or other payers, particularly those in locked settings, would need to be addressed in order to ensure adequate access to humane treatment.

#### **Strategic Plan:**

N/A

#### **Racial Equity:**

N/A

#### **Was this item identified as an opportunity to apply the Racial Equity Toolkit?**

No

#### **Prior Board Actions:**

On January 4, 2022, the Board adopted a resolution designating Crestwood Sonoma County Healing Center, as an involuntary detention facility for the purpose of assessment, evaluation, and treatment of adults who are a danger to others, danger to themselves, or gravely disabled under the Lanterman-Petris-Short (LPS) Act.

On December 7, 2021 the Board authorized the Director of Health Services, or designee, to execute an agreement and amendments with Crestwood Behavioral Health, Inc. for the operation of the Los Guilicos Psychiatric Health Facility with a term beginning in fiscal year 2021-2022 and ending no later than 36 months

---

**Agenda Date:** 12/12/2023

---

after the beginning date, for a not-to-exceed amount of up to \$5,110,000 annually.

In June 2020 and June 2021, the Board adopted resolution numbers 20-0189 and 21-0245 designating various professionals as persons with authority to detain individuals who they have probable cause to believe are a danger to self or others, or gravely disabled.

In 2013, the Board adopted resolution number 13-0151 designating the Aurora Behavioral Health Hospital facility an involuntary detention facility for minors and adults under the LPS Act.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY23-24 Adopted</b>	<b>FY24-25 Projected</b>	<b>FY25-26 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
<b>Total Sources</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Narrative Explanation of Fiscal Impacts:**

There are no fiscal impacts associated with this item.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Attachment 1 - Resolution Deferring Implementation of SB 43

Attachment 2 - Letter of Support from Hospital Association of Sonoma County

**Related Items "On File" with the Clerk of the Board:**

None