

**PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY FOUR OR MORE SUPERVISORS TO THE VOTERS AT THE NOVEMBER 4, 2014 ELECTION.**

[Under Charter Section 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than *45 days prior* to deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Health Code - Assisted Outpatient Treatment ("Laura's Law")]

**Ordinance amending the Health Code to authorize the implementation of court-ordered Assisted Outpatient Treatment for individuals with mental illness who meet the criteria established by California Welfare and Institutions Code Sections 5345-5349.5 ("Laura's Law"), and making a finding that this authorization will not result in a reduction of current adult and juvenile mental health programs.**

NOTE: **Unchanged Code text and uncodified text** are in plain font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Health Code is hereby amended by adding to Article 41 a Division II, consisting of Sections 4111-4118, to read as follows:

**ARTICLE 41. MENTAL HEALTH**

**DIVISION II: ASSISTED OUTPATIENT TREATMENT.**

**SEC. 4111. FINDINGS REGARDING ASSISTED OUTPATIENT TREATMENT.**

(a) California Welfare and Institutions Code §§5345-5349.5, also known as "Laura's Law," authorizes counties to implement Assisted Outpatient Treatment ("AOT") to obtain court-ordered

mental health treatment for individuals with mental illness for whom other methods of entering and maintaining treatment have been unsuccessful.

(b) AOT provides treatment through community-based, mobile, recovery-oriented, multidisciplinary, highly trained mental health teams with a staff-to-client ratio of no more than 10 clients per team member.

(c) Several independent studies of similar programs in other states, cited in a 2012 background paper prepared by the Treatment Advocacy Center, show that AOT promotes long-term treatment compliance, and reduces the incidence and duration of hospitalizations, homelessness, arrests, incarcerations, violent episodes, and the victimization of individuals with mental illness by others, while also relieving caregiver stress.

(d) These same studies show that states and municipalities that have successfully implemented AOT realized cost savings in their respective mental health, criminal justice, and emergency care systems.

(e) According to research cited in the June 2012 issue of The Resident's Journal, a publication of The American Journal of Psychiatry, almost half of the individuals with a severe mental illness in the United States are untreated, and almost half of those individuals suffer from anosognosia (the inability to recognize one's own mental illness) and possess significant deficits in self-awareness.

(f) This same research also finds a clear link between lack of insight regarding one's own mental illness and the inability to adhere to treatment, which results in poorer clinical outcomes, illness relapse, hospitalization, and suicide attempts.

(g) For severely mentally ill individuals who are unable to maintain a consistent voluntary treatment regime, AOT provides a means to assist and support them through a structured treatment program.

(h) Before an AOT program may be implemented in a county under California Welfare and Institutions Code §§5345-5349.5, the county must authorize the application of the program in the

county by appropriate legislation and make a finding that no voluntary mental health program serving adults, and no children's mental health program will be reduced as a result of implementing AOT.

**SEC. 4112. AUTHORIZING ASSISTED OUTPATIENT TREATMENT; REQUIRED PROGRAMS.**

(a) The City and County of San Francisco ("City") authorizes the implementation of California Welfare and Institutions Code §§5345-5349.5 through court-ordered Assisted Outpatient Treatment ("AOT") within the City as provided in this Division II. The City finds that no voluntary mental health program serving adults, and no children's mental health program within the City will be reduced as a result of implementing AOT.

(b) As part of AOT, the City shall provide services that will conform to the requirements of California Welfare and Institutions Code §5348, or any successor provisions. These services shall include, but are not limited to, community-based comprehensive individual service and delivery plans, which plans shall be gender, age, disability, linguistically and culturally appropriate. The plans shall provide access to housing, and be designed to allow the person subject to petition ("Subject") to live in the most independent, least restrictive setting possible. The City shall provide AOT services in each case through a community-based multidisciplinary and highly trained mental health team ("AOT Team") with a staff-to-client ratio of no more than 10 clients per team member.

**SEC. 4113 PETITION.**

(a) The following persons may request the County Mental Health Director ("Director"), or the Director's designee, to file a petition with the Superior Court for AOT:

- (1) Any person 18 years or older with whom the Subject resides;
- (2) Any person who is the parent, spouse, adult sibling, or adult child of the Subject;
- (3) The director of a facility providing mental health services where the Subject resides, the director of a hospital where the Subject is hospitalized, or a licensed mental health treatment provider who treats the Subject or supervises the treatment of the Subject; or,

(4) A peace, probation or parole officer assigned to supervise the Subject.

(b) If the Director or designee finds that good cause supports the request, he or she may file a verified petition with the Superior Court that sets forth all of the following elements:

(1) That the Subject is at least 18 years old and is present in the City:

(2) That the Subject is suffering from a mental illness as defined in California Welfare and Institutions Code §§5600.3(b)(2) and (3), or any successor provisions:

(3) That there has been a clinical determination that the Subject is unlikely to survive safely in the community without supervision:

(4) That there is a history of the Subject's lack of compliance with treatment, based on at least one of the following:

(A) twice within the last 36 months, mental illness was a substantial factor in the Subject's hospitalization or receipt of mental health services in jail, not including any period during which the Subject was hospitalized or incarcerated immediately preceding the filing of the petition, or

(B) within the last 48 months, the Subject's mental illness resulted in one or more acts of serious violent behavior toward himself or herself or others, or the Subject threatened or attempted to cause serious physical harm to himself or herself or others, not including any period in which the Subject was hospitalized or incarcerated immediately preceding the filing of the petition:

(5) That the Subject has been offered the opportunity to participate in a treatment plan that includes all of the services set forth in Section 4112, but continues to fail to engage in treatment:

(6) That the Subject's condition is substantially deteriorating:

(7) That participation in AOT would be the least restrictive placement necessary to ensure the Subject's recovery and stability:

(8) That the Subject's treatment history and current behavior indicate that the Subject needs AOT to prevent relapse or deterioration that would likely result in grave disability or serious

harm to himself or herself or in a civil commitment under California Welfare and Institutions Code §§5150, et seq.; and,

(9) That it is likely that the Subject would benefit from AOT.

(c) The Director or designee shall submit with the petition the supporting affidavit of a licensed mental health treatment provider, or providers, testifying as to all of the elements identified in subsection (b). The provider must be willing and able to testify at the hearing and must base the affidavit on his or her personal examination of the Subject occurring no more than 10 days prior to the filing of the petition, unless the provider attempted to examine the Subject during that time, but the Subject refused to be examined, in which case the affidavit shall so state.

(d) After the Director or designee files the petition, but before the conclusion of the court hearing on the petition, the Subject or with the Subject's consent, the Subject's legal counsel, may waive the Subject's right to the hearing, and agree to obtain treatment under a written settlement agreement, provided an examining licensed mental health treatment provider states that the Subject could survive safely in the community. The term of the settlement agreement may not exceed 180 days, and the agreement shall be subject to the provisions of California Welfare and Institutions Code §5347.

(e) The Superior Court may order AOT for the Subject if the court finds that all of the elements of the petition, as required in subsection (b), have been established by clear and convincing evidence.

**SEC. 4114. SUBJECT'S RIGHTS.**

(a) The Subject of the petition shall have the following rights:

(1) To receive personal service of all notices of hearings, as well as notice to parties designated by the Subject;

(2) To receive a copy of the court ordered evaluation;

(3) To be represented by counsel, and if the Subject cannot afford counsel, to be represented by the Public Defender;

(4) To be present at all hearings, unless the Subject knowingly waives such right;

(5) To be informed of the right to judicial review by habeas corpus;

(6) To present evidence, call and examine witnesses, and cross-examine witnesses, at the AOT hearing; and

(7) To be informed of the right to appeal the court's decisions.

(b) If Subject is not present at the AOT hearing, and the court orders AOT for the Subject, the Subject may file a habeas corpus petition challenging the court's imposition of AOT on the Subject, and AOT may not commence until that petition is resolved.

(c) During each 60-day period of AOT, the Subject may file a habeas corpus petition to require the Director, or the Director's designee, to prove that the Subject still meets all the criteria for AOT, as set forth in Section 4113(b).

(d) If the Subject refuses to participate in AOT, the court may order the Subject to meet with the AOT Team designated by the Director. The AOT Team shall attempt to gain the Subject's cooperation with the treatment plan ordered by the court. If the Subject is still not cooperative, he or she may be subject to a 72-hour hold pursuant to the requirements of California Welfare and Institutions Code §5346(f).

(e) Except as stated in subsection (d), failure by the Subject to comply with AOT is not a basis for involuntary civil commitment, or contempt of court.

(f) Involuntary medication is not authorized under AOT without a separate and specific court order.

(g) The court may order no more than six months of AOT. If the Director, or Director's designee, determines that further AOT for the Subject is appropriate, the Director must, prior to the expiration of the initial period, apply to the court for authorization to extend the time for a period not to exceed an additional 180 days.

(h) Every 60 days, the Director, or Director's designee must file an affidavit with the court affirming that the Subject continues to meet the criteria for AOT, as set forth in Section 4113(b). If the

Subject disagrees with this affidavit, he or she has the right to a hearing, at which the Director shall have the burden of proving that the Subject continues to meet the criteria for AOT.

**SEC. 4115. TRAINING AND REGULATIONS.**

(a) The Director of Public Health shall develop a training and education program as required by California Welfare and Institutions Code §5349.1.

(b) The Director of Public Health is authorized to promulgate regulations to implement this Division II.

**SEC. 4116. REPORTS.**

(a) The Department of Public Health shall comply with the reporting requirements as set forth in California Welfare & Institutions Code §5348(d).

(b) The Department of Public Health shall provide an annual report to the Board of Supervisors on the number of participants in AOT, the length of their treatment, the outcome of their treatment, and other matters the Department deems relevant.

**SEC. 4117. UNDERTAKING FOR THE GENERAL WELFARE.**

In enacting and implementing this Division II, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

**SEC. 4118. AMENDMENT BY THE BOARD OF SUPERVISORS**

The voters may amend or repeal this Chapter. The Board of Supervisors may amend this Chapter if all of the following conditions are met:

(a) The amendment is necessary to conform to changes in State law or otherwise furthers the purposes of this Chapter;

(b) The amendment is available for public review at least 30 days before it is considered by the Board of Supervisors or any committee of the Board of Supervisors; and

(c) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

\* \* \*

SUBMITTED.

Scott Wiener

Date: 5/15/14

Member, Board of Supervisors

Keltang

Date: 5/16/14

Member, Board of Supervisors

[Signature]

Date: 5-16-14

Member, Board of Supervisors

Muh E. J.

Date: 5/14/14

Member, Board of Supervisors