

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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MEMORANDUM

TO: Jon Givner, Deputy City Attorney
Barbara A. Garcia, Director, Department of Public Health
George Gascón, District Attorney

FROM: John Carroll, Assistant Clerk,
Public Safety and Neighborhood Services Committee,
Board of Supervisors

DATE: March 28, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced as a substitute by Supervisor Breed on March 20, 2018:

File No. 180156

Ordinance amending the Health Code to designate the City Attorney rather than the District Attorney to institute judicial proceedings under the Lanterman-Petris-Short Act to appoint conservators for persons with mental health disorders and compel participation in assisted outpatient treatment; and expressing the Board of Supervisors' intent to add positions to the Office of the City Attorney to institute such proceedings, and appropriate funding for that purpose.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Cristine Soto DeBerry, Office of the District Attorney
Maxwell Szabo, Office of the City Attorney

1 [Health Code - Designation of City Attorney to Institute Mental Health Conservatorship and
2 Assisted Outpatient Treatment Proceedings]

3 **Ordinance amending the Health Code to designate the City Attorney rather than the**
4 **District Attorney to institute judicial proceedings under the Lanterman-Petris-Short Act**
5 **to appoint conservators for persons with mental health disorders and compel**
6 **participation in assisted outpatient treatment; and expressing the Board of**
7 **Supervisors' intent to add positions to the Office of the City Attorney to institute such**
8 **proceedings, and appropriate funding for that purpose.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Background.

18 (a) The Lanterman-Petris-Short Act ("LPS Act"), California Welfare and Institutions
19 Code §§ 5000 et seq., authorizes the implementation of several programs and interventions
20 relating to behavioral health, including but not limited to the involuntary commitment of
21 persons needing psychiatric treatment, court-ordered mental health conservatorships, and
22 court-ordered assisted outpatient treatment.

23 (b) Sections 26530 and 27646 of the California Government Code, and Section
24 5114 of the California Welfare and Institutions Code, provide that the district attorney shall
25 represent the county in proceedings under the LPS Act, unless the county board of
supervisors designates the county counsel to do so.

1
2 Section 2. Article 41 of the Health Code is hereby amended by adding Division III,
3 “Judicial Proceedings,” Section 4121, to read as follows:

4 **DIVISION III: JUDICIAL PROCEEDINGS**

5 **SEC. 4121. DESIGNATION OF CITY ATTORNEY.**

6 The City Attorney is designated to represent the county in the following proceedings:

7 (a) Judicial proceedings authorized by Article 9 of Chapter 2 of Division 5 of the California
8 Welfare and Institutions Code (“The Assisted Outpatient Treatment Demonstration Project Act of
9 2002”); and

10 (b) Beginning January 1, 2019, judicial proceedings authorized by Chapter 3 of Division 5
11 of the California Welfare and Institutions Code (“Conservatorship for Gravely Disabled Persons”);
12 provided, however, that the City Attorney is not designated to represent the county in such proceedings
13 where they concern a person who meets the definition of “gravely disabled” as set forth in subsection
14 (h)(1)(B) of Section 5008 of the California Welfare and Institutions Code.

15
16 Section 3. Beginning with fiscal year 2018-2019, the Board of Supervisors intends to
17 add positions to the Office of the City Attorney to perform the functions described in Section 2
18 of this ordinance, and appropriate funds for the City Attorney’s budget to support those
19 positions.

20
21 Section 4. Effective and Operative Dates; Ratification of Prior Acts.

22 (a) This ordinance shall become effective 30 days after enactment. Enactment
23 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
24 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
25

1 overrides the Mayor's veto of the ordinance. However, as stated in Health Code Section
2 4121(b), the designation authorized therein shall not become operative until January 1, 2019.

3 (b) The Board of Supervisors hereby ratifies and confirms all actions taken by City
4 officials or City agencies in connection with the filing of petitions for assisted outpatient
5 treatment as authorized by Article 9 of Chapter 2 of Division 5 of the California Welfare and
6 Institutions Code and Division II of Article 41 of the Health Code.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: 
11 ANNE PEARSON
12 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Substituted, 3/20/2018)

[Health Code - Designation of City Attorney to Institute Mental Health Conservatorship and Assisted Outpatient Treatment Proceedings]

Ordinance amending the Health Code to designate the City Attorney rather than the District Attorney to institute judicial proceedings under the Lanterman-Petris-Short Act to appoint conservators for persons with mental health disorders and compel participation in assisted outpatient treatment; and expressing the Board of Supervisors' intent to add positions to the Office of the City Attorney to institute such proceedings, and appropriate funding for that purpose.

Existing Law

The Lanterman-Petris-Short Act ("LPS Act") authorizes the implementation of several programs and interventions relating to behavioral health, including but not limited to the involuntary commitment of persons needing psychiatric treatment, court-ordered mental health conservatorships, and court-ordered assisted outpatient treatment ("AOT").

Currently, state law provides that the district attorney shall represent the county in proceedings under the LPS Act, unless the county board of supervisors designates the county counsel to do so.

In San Francisco, the City Attorney institutes judicial proceedings to require participation in the AOT program, and the District Attorney institutes judicial proceedings to appoint conservators for persons with mental health disorders.

Amendments to Current Law

This ordinance would formally designate the City Attorney to initiate both AOT proceedings and mental health conservatorships. However, the District Attorney would retain the responsibility for initiating mental health conservatorships for persons who are found mentally incompetent to stand trial under Section 1370 of the Penal Code, and where the complaint against the individual charges a felony involving death, great bodily harm, or serious threat to the physical well-being of another person.

The ordinance also would convey the Board of Supervisors' intent to add positions to the Office of the City Attorney to perform the functions that are being assigned to that office, and to add funds to the City Attorney's budget to support those positions.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2018 MAR 20 PM 3:14

Time stamp
or meeting date

BY AK

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

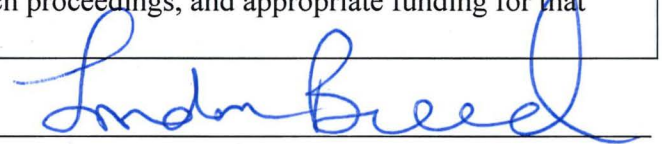
Sponsor(s):

Subject:

The text is listed below or attached:

Ordinance amending the Health Code to designate the City Attorney rather than the District Attorney to institute judicial proceedings under the Lanterman-Petris-Short Act to appoint conservators for persons with mental health disorders and compel participation in assisted outpatient treatment; and expressing the Board of Supervisors' intent to add positions to the Office of the City Attorney to institute such proceedings, and appropriate funding for that purpose.

Signature of Sponsoring Supervisor:



For Clerk's Use Only: