

File No. 220397

Committee Item No. 2

Board Item No. 48

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Comm: Public Safety & Neighborhood Services

Date: May 26, 2022

Board of Supervisors Meeting:

Date: June 7, 2022

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
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OTHER

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Senate Bill No. 929 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Senate Bill No. 965 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Senate Bill No. 970 |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Senate Bill No. 1227 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Senate Bill No. 1238 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Senate Bill No. 1416 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | CSAC and LCC Position Tracking |

Prepared by: Alisa Somera

Date: May 20, 2022

Prepared by: Alisa Somera

Date: June 3, 2022

1 [Supporting California State Senate Bill Nos. 929, 965, 970, 1035, 1154, 1227, 1238, and
2 1416 (Eggman) - Legislation Modernizing California's Behavioral Health Continuum]

3 **Resolution urging the California State Legislature to pass California State Senate Bill**
4 **Nos. 929, 965, 970, 1035, 1154, 1227, 1238, and 1416, introduced by California Senator**
5 **Susan Eggman, on legislation modernizing California’s Behavioral Health Continuum.**

6

7 WHEREAS, California State Senate Bill Nos. (SB) 929, SB 965, SB 970, SB 1034, SB
8 1154, SB 1227, SB 1238, and SB 1416 constitute a package of bills introduced by Senator
9 Susan Eggman to improve California’s behavioral health system across the continuum,
10 through prevention and early intervention, community supports and services, intersystem
11 collaboration, improving access to assisted outpatient treatment, providing increased
12 accountability through outcome tracking, preventing avoidable conservatorships, and
13 improving the effectiveness of our conservatorship process for those that need them; and

14 WHEREAS, Passage of these bills would represent a significant overhaul of
15 California’s response to the behavioral health needs of individuals suffering from severe
16 mental illness; and

17 WHEREAS, The changes incorporated into Senator Eggman’s legislation are
18 necessary and overdue; and

19 WHEREAS, The effects of California’s failure to provide adequate mental health care is
20 reflected in the fact that 81% of the unhoused, unsheltered people living on San Francisco’s
21 streets suffer from some sort of psychiatric condition, addiction, or both, and our local
22 psychiatric emergency services have been on condition-red since May 2020; and

23 WHEREAS, SB 929 would require the State to collect data on the number of people
24 placed on temporary psychiatric holds, clinic outcomes for individuals placed in each type of
25 hold, and services provided in each category; and

1 WHEREAS, SB 965 would ensure that the court considers the contents of reports filed
2 at the conclusion of conservatorship investigations and that, during conservatorship
3 proceedings, relevant testimony may be considered, provided it falls under a hearsay
4 exemption; and

5 WHEREAS, SB 970 would amend the Mental Health Services Act to establish a clear
6 guide of measurable outcomes that counties can use to identify goals and create mechanisms
7 for counties to track and report on their performance, followed by promulgation of self-
8 improvement plans and regular progress updates; and

9 WHEREAS, SB 1035 would explicitly allow courts to order medication as part of a
10 treatment plan, an essential tool that allows individuals to safely remain in their communities
11 and manage their mental illness; and

12 WHEREAS, SB 1154 would establish a real-time online dashboard to collect,
13 aggregate, and display information about beds in inpatient psychiatric facilities, crisis
14 stabilization units, residential community mental health facilities, and licensed residential
15 community mental health facilities; and

16 WHEREAS, SB 1227 would provide additional flexibility for counties in treating
17 individuals placed on 14-day psychiatric holds by allowing a second 30-day extension for
18 patients who do not stabilize after an additional 14-day hold and 30-day extension; and

19 WHEREAS, SB 1238 would require the Department of Health Care Services to
20 determine existing and projected needs for behavioral health services on a regional basis, and
21 would require councils of local governments to provide data on total bed capacity, total
22 utilization, and unmet need in a variety of categories; and

23 WHEREAS, SB 1416 would modernize the Lanterman-Petris-Short Act by defining
24 those who, as a result of a mental health disorder, are unable to provide for their basic needs
25 of personal or medical care or self protection and safety, as “gravely disabled;” and

1 WHEREAS, This package of legislation is endorsed by the Big City Mayors coalition,
2 representing the 13 largest cities and roughly 11 million residents in California; now, therefore,
3 be it

4 RESOLVED, That the Board of Supervisors supports California Senate Bill Nos. 929,
5 965, 970, 1035, 1154, 1227, 1238, and 1416; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
7 Board to transmit a copy of this Resolution to San Francisco's state legislative delegation, and
8 the Office of the Chief Clerk of the Assembly and Office of the Secretary of the Senate.

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AMENDED IN SENATE MARCH 28, 2022

SENATE BILL

No. 929

Introduced by Senator Eggman
(Coauthors: Senators Grove, Hurtado, and Rubio)

February 7, 2022

An act to amend Section 5402 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 929, as amended, Eggman. Community mental health services: data collection.

Existing law requires the State Department of Health Care Services to collect and publish annually quantitative information concerning the operation of various provisions relating to community mental health services, including the number of persons admitted for evaluation and treatment for certain periods, transferred to mental health facilities, or for whom certain conservatorships are established, as specified. Existing law requires each local mental health director, and each facility providing services to persons under those provisions, to provide the department, upon its request, with any information, records, and reports that the department deems necessary for purposes of the data collection and publication.

This bill would additionally require the department to collect and publish annually quantitative 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. ~~To~~ *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.

To the extent that the bill would increase the duties of local mental health ~~directors or~~ *directors*, facilities of local ~~entities~~ *entities*, or any other local entities with regard to providing the department, upon its request, with new types of data, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5402 of the Welfare and Institutions Code
2 is amended to read:

3 5402. (a) The State Department of Health Care Services shall
4 collect and publish annually quantitative information concerning
5 the operation of this division, including the number of persons
6 admitted *or detained* for 72-hour evaluation and treatment,
7 *admitted for* 14-day and 30-day periods of intensive treatment,
8 and *admitted for* 180-day postcertification intensive treatment, the
9 number of persons transferred to mental health facilities pursuant
10 to Section 4011.6 of the Penal Code, the number of persons for
11 whom temporary conservatorships are established, the number of
12 persons for whom conservatorships are established in each county,
13 the clinical outcomes for individuals placed in each type of hold,
14 the services provided to individuals in each category, the waiting
15 periods for individuals prior to receiving care, current and future
16 needs for treatment beds and services, an assessment of all
17 contracted beds, historical information on county bed waiting lists
18 and referrals to certain types of facilities, and plans for the creation
19 of new beds.

20 (b) Each local mental health director, ~~and~~ each facility providing
21 services to persons pursuant to this division, *and each other entity*

1 *involved in implementing Section 5150* shall provide the
2 department, upon its request, with any information, records, and
3 reports that the department deems necessary for the purposes of
4 this section. The department shall not have access to any patient
5 name identifiers.

6 (c) Information published pursuant to this section shall not
7 contain patient name identifiers and shall contain statistical data
8 only.

9 (d) The department shall make the reports available to medical,
10 legal, and other professional groups involved in the implementation
11 of this division.

12 SEC. 2. If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.

AMENDED IN SENATE APRIL 6, 2022

AMENDED IN SENATE MARCH 15, 2022

SENATE BILL

No. 965

Introduced by Senator Eggman

February 9, 2022

An act to amend Section 5354 ~~of~~ *of*, and to add Section 5122 to, the Welfare and Institutions Code, relating to conservatorships.

LEGISLATIVE COUNSEL'S DIGEST

SB 965, as amended, Eggman. Conservatorships: gravely disabled persons.

Existing law, the Lanterman-Petris-Short Act, authorizes a conservator of the person, of the estate, or of the person and the estate to be appointed for a person who is gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism. Existing law requires the officer providing the conservatorship investigation, which may include a public guardian or a county mental health program, to investigate all available alternatives to conservatorship and to recommend conservatorship to the court only if no suitable alternatives are available. Existing law requires the officer to render a written report of investigation to the court prior to the hearing that contains specified information, including all relevant aspects of the person's medical, psychological, financial, family, vocational, and social condition. Existing law authorizes the court to receive the report in evidence and to read and consider the contents of the report in rendering its judgment.

This bill would require, rather than authorize, the court to receive the report in evidence and to read and consider the contents of the report in rendering its judgment. The bill would also require the officer, if the officer determines that information about the historical course of the

person's mental disorder and adherence to prior treatment plans has a reasonable bearing on the determination as to whether the person is gravely disabled as a result of the mental disorder, to include that information in the report and would require the court to consider the information.

By information. By expanding the duties of the county officer providing conservatorship investigation, this bill would impose a state-mandated local program.

Existing law establishes the hearsay rule, which provides that evidence of a statement that was made other than by a witness while testifying at a hearing and that is offered to prove the truth of the matter stated, is inadmissible. Existing law provides exceptions to the hearsay rule to permit the admission of specified kinds of evidence, including a social study, as defined, prepared by the petitioning agency to establish jurisdiction in a matter involving the custody, status, or welfare of a minor in a dependency proceeding, as specified.

Under this bill, a written report, and the hearsay evidence contained in it, furnished to the court and to all parties or their counsel by the officer conducting the conservatorship investigation or by another specified individual, in a matter involving the status or welfare of a conservatee or proposed conservatee, would be admissible and constitute competent evidence upon which the appointment of conservator may be ordered by the court, as specified. The bill would apply to a conservatorship proceeding described above and to specified conservatorship proceedings in the County of Los Angeles, the County of San Diego, or the City and County of San Francisco for the appointment of a conservator for a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder. The bill would require the preparer of the report to be made available for cross-examination upon a timely request by a party. Under the bill, if a party raises a timely objection to the admission of specific hearsay evidence, the evidence would not be sufficient by itself to support an appointment of a conservator unless the petitioner establishes an exception, including, among other things, that the evidence would be admissible in any civil or criminal proceeding under any exception to the prohibition against hearsay or that the hearsay declarant is available for cross-examination.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5122 is added to the Welfare and
2 Institutions Code, to read:

3 5122. (a) For purposes of this section, “report” means any
4 written report furnished to the court and to all parties or their
5 counsel by the officer conducting conservatorship investigation,
6 the county public guardian or conservator, or any other appointed
7 conservator, in any matter involving the status or welfare of a
8 conservatee or a proposed conservatee in a conservatorship
9 proceeding, including a court or jury trial regarding the initial
10 appointment of a conservator and subsequent proceedings to
11 reestablish conservatorship pursuant to Chapter 3 (commencing
12 with Section 5350) or Chapter 5 (commencing with Section 5450).

13 (b) The report, and any hearsay evidence contained in it, is
14 admissible and constitutes competent evidence upon which the
15 appointment of a conservator pursuant to Section 5350 or 5451
16 may be ordered by the court, to the extent allowed by subdivisions
17 (e) and (f).

18 (c) The preparer of the report shall be made available for
19 cross-examination upon a timely request by a party. The court
20 may deem the preparer available for cross-examination if it
21 determines that the preparer is on telephone standby and can be
22 present in court within a reasonable time of the request.

23 (d) The court may grant a reasonable continuance upon request
24 by any party if the report is not provided to the parties or their
25 counsel within a reasonable time before the hearing.

26 (e) (1) If a party raises a timely objection to the admission of
27 specific hearsay evidence contained in the report, the specific
28 hearsay evidence shall not be sufficient by itself to support an
29 appointment of a conservator unless the petitioner establishes one
30 or more of the following exceptions:

1 (A) *The hearsay evidence would be admissible in any civil or*
 2 *criminal proceeding under any statutory or decisional exception*
 3 *to the prohibition against hearsay.*

4 (B) *The hearsay declarant is a health practitioner described in*
 5 *paragraphs (21) to (28), inclusive, of subdivision (a) of Section*
 6 *11165.7 of the Penal Code, or a social worker licensed pursuant*
 7 *to Chapter 14 (commencing with Section 4991) of Division 2 of*
 8 *the Business and Professions Code. For purposes of this*
 9 *subparagraph, evidence in a declaration is admissible only to the*
 10 *extent that it would otherwise be admissible under this section or*
 11 *if the declarant were present and testifying in court.*

12 (C) *The hearsay declarant is available for cross-examination.*
 13 *For purposes of this section, the court may deem a witness*
 14 *available for cross-examination if it determines that the witness*
 15 *is on telephone standby and can be present in court within a*
 16 *reasonable time of a request to examine the witness.*

17 (2) *For purposes of this subdivision, an objection is timely if it*
 18 *identifies with reasonable specificity the disputed hearsay evidence*
 19 *and it gives the petitioner a reasonable period of time to meet the*
 20 *objection prior to a contested hearing.*

21 (f) *This section shall not be construed to limit the right of a*
 22 *party to subpoena a witness whose statement is contained in the*
 23 *report or to introduce admissible evidence relevant to the weight*
 24 *of the hearsay evidence or the credibility of the hearsay declarant.*

25 **SECTION 1.**

26 **SEC. 2.** Section 5354 of the Welfare and Institutions Code is
 27 amended to read:

28 5354. (a) The officer providing conservatorship investigation
 29 shall investigate all available alternatives to conservatorship and
 30 shall recommend conservatorship to the court only if no suitable
 31 alternatives are available. The officer shall render to the court a
 32 written report of investigation prior to the hearing. The report to
 33 the court shall be comprehensive and shall contain all relevant
 34 aspects of the person’s medical, psychological, financial, family,
 35 vocational, and social condition, and information obtained from
 36 the person’s family members, close friends, social worker, or
 37 principal therapist. If the officer determines that information about
 38 the historical course of the person’s mental disorder and adherence
 39 to prior treatment plans has a reasonable bearing on the
 40 determination as to whether the person is gravely disabled as a

1 result of the mental disorder, the officer shall include that
2 information in the report and the court shall consider the
3 information. The report shall also contain all available information
4 concerning the person's real and personal property. The facilities
5 providing intensive treatment or comprehensive evaluation shall
6 disclose any records or information which may facilitate the
7 investigation. If the officer providing conservatorship investigation
8 recommends against conservatorship, the officer shall set forth all
9 alternatives available. A copy of the report shall be transmitted to
10 the individual who originally recommended conservatorship, to
11 the person or agency, if any, recommended to serve as conservator,
12 and to the person recommended for conservatorship. The court
13 shall receive the report in evidence and shall read and consider the
14 contents of the report in rendering its judgment.

15 (b) Notwithstanding Section 5328, if a court with jurisdiction
16 over a person in a criminal case orders an evaluation of the person's
17 mental condition pursuant to Section 5200, and that evaluation
18 leads to a conservatorship investigation, the officer providing the
19 conservatorship investigation shall serve a copy of the report
20 required under subdivision (a) upon the defendant or the
21 defendant's counsel. Upon the prior written request of the
22 defendant or the defendant's counsel, the officer providing the
23 conservatorship investigation shall also submit a copy of the report
24 to the court hearing the criminal case, the district attorney, and the
25 county probation department. The conservatorship investigation
26 report and the information contained in that report, shall be kept
27 confidential and shall not be further disclosed to anyone without
28 the prior written consent of the defendant. After disposition of the
29 criminal case, the court shall place all copies of the report in a
30 sealed file, except as follows:

31 (1) The defendant and the defendant's counsel may retain their
32 copy.

33 (2) If the defendant is placed on probation status, the county
34 probation department may retain a copy of the report for the
35 purpose of supervision of the defendant until the probation is
36 terminated, at which time the probation department shall return
37 its copy of the report to the court for placement into the sealed file.

38 ~~SEC. 2.~~

39 *SEC. 3.* If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

- 1 local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

O

AMENDED IN SENATE MARCH 10, 2022

SENATE BILL

No. 970

Introduced by Senator Eggman

(Principal coauthor: Senator Stern)

(Principal coauthors: Assembly Members Carrillo, Friedman, and
Quirk-Silva)

(Coauthor: Senator Glazer)

February 10, 2022

An act to amend Sections 5651, 5847, 5848, 5891, 5891.5, and 5892 of, and to add Section 5846.5 to, the Welfare and Institutions Code, relating to mental health: *health, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 970, as amended, Eggman. Mental Health Services—~~Act: accountability and planning.~~ *Act.*

Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Fund (MHSF), a continuously appropriated fund, to fund various county mental health programs, including children's mental health care, adult and older adult mental health care, ~~and prevention and early intervention programs, and innovative programs.~~ *The Existing law authorizes the MHSA to be amended by a ²/₃ vote of each house of the Legislature if the amendments are consistent with, and further the intent of, the MHSA.*

The MHSA requires a certain percentage of funds in the MHSF to be used by the counties for specified purposes, including requiring 20% of all unexpended and unreserved funds on deposit in the MHSF each month to be distributed to the counties and used for prevention and early intervention programs and requiring 5% of the total funding for

each county mental health program for children’s mental health care, adult and older adult mental health care, and prevention and early intervention to be utilized for innovative programs, as specified.

This bill would amend the MHSF by eliminating those percentage funding requirements commencing with the 2024–25 fiscal year. By changing the purposes for which the funds in the MHSF may be used, the bill would make an appropriation.

The MHSF—established establishes the Mental Health Services Oversight and Accountability Commission and requires the counties to prepare and submit a 3-year program and expenditure plan, and annual updates, as specified, to the commission and the department.

~~Existing law authorizes the MHSF to be amended by a $\frac{2}{3}$ -vote of each house of the Legislature if the amendments are consistent with, and further the intent of, the MHSF.~~

This bill would amend the MHSF by, instead, requiring the counties to prepare and submit 5-year program and expenditure plans, and annual updates, as specified.

This bill would require the California Health and Human Services Agency, by July 1, 2024, to establish the California MHSF Outcomes and Accountability Review (MHSF-OAR), consisting of performance indicators, county self-assessments, and county MHSF improvement plans, to facilitate a local accountability system that fosters continuous quality improvement in county programs funded by the MHSF and in the collection and dissemination by the department of best practices in service delivery. The bill would require the agency to convene a workgroup, as specified, to establish a workplan by which the MHSF-OAR shall be conducted, including a process for qualitative peer reviews of counties’ MHSF services and uniform elements for the county MHSF system improvement plans. The bill would require the agency to establish specific process measures and uniform elements for the county MHSF improvement plans and updates. The bill would require the counties to execute and fulfil components of its MHSF system improvement plan that can be accomplished with existing resources. The bill would require the agency to report to the Legislature, on an annual basis, a report that summarizes county performance on the established process and outcome measures during the reporting period, analyzes county performance trends over time, and makes findings and recommendations for common MHSF services improvements identified in the county MHSF self-assessments and county MHSF system improvement plans. By imposing new

requirements on counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~-yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5651 of the Welfare and Institutions Code
2 is amended to read:

3 5651. (a) Counties shall comply with the terms of the county
4 mental health services performance contract.

5 (b) The county mental health services performance contract
6 shall include all of the following provisions:

7 (1) That the county shall comply with the expenditure
8 requirements of Section 17608.05.

9 (2) That the county shall provide services to persons receiving
10 involuntary treatment as required by Part 1 (commencing with
11 Section 5000) and Part 1.5 (commencing with Section 5585).

12 (3) That the county shall comply with all requirements necessary
13 for Medi-Cal reimbursement for mental health treatment services
14 and case management programs provided to Medi-Cal eligible
15 individuals, including, but not limited to, the provisions set forth
16 in Chapter 3 (commencing with Section 5700), and that the county
17 shall submit cost reports and other data to the department in the
18 form and manner determined by the State Department of Health
19 Care Services.

20 (4) That the local mental health advisory board has reviewed
21 and approved procedures ensuring citizen and professional
22 involvement at all stages of the planning process pursuant to
23 Section 5604.2.

24 (5) That the county shall comply with all provisions and
25 requirements in law pertaining to patient rights.

1 (6) That the county shall comply with all requirements in federal
2 law and regulation, and all agreements, certifications, assurances,
3 and policy letters, pertaining to federally funded mental health
4 programs, including, but not limited to, the Projects for Assistance
5 in Transition from Homelessness grant and Community Mental
6 Health Services Block Grant programs.

7 (7) That the county shall provide all data and information set
8 forth in Sections 5610 and 5664.

9 (8) That the county, if it elects to provide the services described
10 in Chapter 2.5 (commencing with Section 5670), shall comply
11 with guidelines established for program initiatives outlined in that
12 chapter.

13 (9) That the county shall comply with all applicable laws and
14 regulations for all services delivered, including all laws,
15 regulations, and guidelines of the Mental Health Services Act.

16 (10) The State Department of Health Care Services' ability to
17 monitor the county's five-year program and expenditure plan and
18 annual update pursuant to Section 5847.

19 (11) Other information determined to be necessary by the
20 director, to the extent this requirement does not substantially
21 increase county costs.

22 (c) The State Department of Health Care Services may include
23 contract provisions for other federal grants or county mental health
24 programs in this performance contract.

25 SEC. 2. Section 5846.5 is added to the Welfare and Institutions
26 Code, to read:

27 5846.5. (a) This section shall be known, and may be cited as,
28 the Mental Health Services Act (MHSA) Outcomes and
29 Accountability Review Act of 2022.

30 (b) The California Health and Human Services Agency shall
31 establish, by July 1, 2024, the California MHSA Outcomes and
32 Accountability Review (MHSA-OAR) to facilitate a local
33 accountability system that fosters continuous quality improvement
34 in county programs funded by the MHSA and in the collection
35 and dissemination by the department of best practices in service
36 delivery. The MHSA-OAR shall cover MHSA-funded services
37 provided to current and former recipients and shall include the
38 programmatic elements that each county offers as part of its MHSA
39 service array, as well as any local program components, and shall

1 consist of performance indicators, a county MHSA self-assessment
2 process, and a county MHSA system improvement plan.

3 (c) (1) (A) On or before October 1, 2023, the agency shall
4 convene a workgroup comprised of representatives from the State
5 Department of Health Care Services, the Mental Health Services
6 Oversight and Accountability Commission, county behavioral
7 health agencies, legislative staff, interested behavioral health
8 advocacy and research organizations, current and former MHSA
9 service recipients, organizations that represent county behavioral
10 health agencies and county boards of supervisors, researchers,
11 people with lived experience, county behavioral health agency
12 partners, and any other entities or individuals that the department
13 deems necessary. The workgroup shall establish a workplan by
14 which the MHSA-OAR shall be conducted, including a process
15 for qualitative peer reviews of counties' MHSA services.

16 (B) The department shall report annually to the Subcommittee
17 on Health and Human Services of the Senate Committee on Budget
18 and Fiscal Review and the Subcommittee on Health and Human
19 Services of the Assembly Committee on Budget during the budget
20 process with an update on the schedule for development of, and
21 future changes to, the MHSA-OAR.

22 (2) At a minimum, in establishing the work plan, the workgroup
23 shall consider existing MHSA performance indicators being
24 measured, additional, alternative, or additional and alternative
25 process and outcome indicators to be measured, development of
26 uniform elements of the county MHSA self-assessment and the
27 county MHSA system improvement plans, timelines for
28 implementation, recommendations for reducing the existing MHSA
29 services data reporting burden, recommendations for financial
30 incentives to counties for achievement on performance measures,
31 and an analysis of the county and state workload associated with
32 implementation of the requirements of this section.

33 (3) The workgroup shall develop the uniform elements for the
34 county MHSA system improvement plans required in paragraph
35 (3) of subdivision (d). The agency, in consultation with the
36 workgroup, shall develop the uniform elements of the updates to
37 those plans, as required pursuant to subparagraph (D) of paragraph
38 (3) of subdivision (d).

1 (d) The MHSA-OAR shall consist of the following three
2 components: performance indicators, a county MHSA
3 self-assessment, and a county MHSA system improvement plan.

4 (1) (A) The MHSA-OAR performance indicators shall be
5 consistent with programmatic goals for the MHSA, and shall
6 include both process and outcome measures. These measures shall
7 be established in order to provide baseline and ongoing information
8 about how the state and counties are performing over time and to
9 inform and guide each county behavioral health agency's MHSA
10 self-assessment and MHSA system improvement plan.

11 (i) Process measures shall include measures of participant
12 engagement, MHSA service delivery, and participation. Specific
13 process measures shall be established by the agency, in consultation
14 with the workgroup, and may include measures of engagement as
15 shown by improvement in program participation, timeliness of
16 service provision, rates of utilization of program components, and
17 referrals and utilization of services.

18 (ii) Outcome measures shall include *measures of the reduction*
19 *of the negative outcomes described in subdivision (d) of Section*
20 *5840, which address prevention and early intervention strategies*
21 *for mental illness, and* measures of employment, educational
22 attainment, program exits, and program reentries, adherence to
23 treatment plans, attainment of housing, reduction in contacts with
24 law enforcement, reduction in hospitalizations, and may include
25 other indicators of well-being as determined by the agency, in
26 consultation with the workgroup.

27 (B) Performance indicator data available in existing county data
28 systems shall be collected by counties and provided to the agency,
29 and performance indicator data available in existing state agency
30 data systems shall be collected by the agency and provided to the
31 counties. These data shall be reported in a manner, and on a
32 schedule, determined by the agency, in consultation with the
33 workgroup, but no less frequently than semiannually.

34 (C) (i) During the first five-year MHSA-OAR cycle,
35 performance indicator data reported by each county, shall be used
36 to establish both county and statewide baselines for each of the
37 process measures. After the first review cycle, the agency shall,
38 in consultation with the workgroup, establish standard target
39 thresholds for each of the process measures established by the
40 workgroup.

1 (ii) The agency, in consultation with the workgroup, shall
2 develop a process for resolving any disputes regarding the
3 establishment of standard process thresholds pursuant to clause
4 (i).

5 (D) For subsequent reviews, and based upon availability of
6 additional data through interagency data-sharing agreements, the
7 workgroup shall convene, as necessary, to consider whether to
8 establish additional performance indicators that support the
9 programmatic goals for the MHSA. Additional performance
10 indicators established shall also be subject to the process described
11 in subparagraph (C) and shall include consideration of when data
12 on the additional performance indicators would be available for
13 reporting, if not already available.

14 (E) If, during subsequent reviews, there is sufficient reason to
15 establish statewide performance standards for one or more outcome
16 measures, the agency may, in consultation with the workgroup,
17 establish those standards for each of the agreed-upon outcome
18 measures.

19 (2) (A) The county MHSA self-assessment component of the
20 MHSA-OAR, as established by the workgroup, shall require the
21 county behavioral health agencies to assess their performance on
22 the established process and outcome measures that comprise the
23 performance indicators, identify the strengths and weaknesses in
24 their current practice and resource deployment, identify and
25 describe how local operational decisions and systemic factors
26 affect program outcomes, and consider areas of focus that may be
27 included in the county MHSA system improvement plan, as
28 described in paragraph (3). The county MHSA self-assessment
29 process shall be designed to identify areas of best practices for
30 replication and for system improvement at the county level, and
31 shall guide the development of the county MHSA system
32 improvement plan.

33 (B) (i) The county MHSA self-assessment process shall be
34 completed every five years by the county, in consultation and
35 collaboration with local stakeholders, and submitted to the agency.

36 (ii) Local stakeholders shall include county behavioral health
37 directors, supervisors, and caseworkers; current and former MHSA
38 service recipients; and county behavioral health agency partners.
39 To the extent possible and relevant, local stakeholders shall also
40 include representatives of tribal organizations and the local

1 behavioral health board. Additional specific county behavioral
2 health agency partners shall be determined by the county and may
3 include, but are not limited to, adult education providers, providers
4 of services for survivors of domestic violence, the local housing
5 continuum of care, county human service departments, county
6 drug and alcohol programs, community-based service providers,
7 and organizations that represent MHSA recipients, as appropriate.

8 (3) (A) (i) The county MHSA system improvement plan shall,
9 at a minimum, describe how the county will improve its MHSA
10 program performance in strategic focus areas based upon
11 information learned through the county MHSA self-assessment
12 process. The county MHSA system improvement plan shall include
13 the uniform elements established by the workgroup pursuant to
14 paragraph (3) of subdivision (c).

15 (ii) The county MHSA system improvement plan shall be
16 completed every five years by the county, approved in public
17 session by the county's board of supervisors or, as applicable, chief
18 elected official, and be submitted to the agency.

19 (B) The county MHSA system improvement plan shall include
20 an MHSA services peer review element, the purpose of which
21 shall be to provide additional insight and technical assistance by
22 peer counties.

23 (C) Strategic focus areas for the county MHSA system
24 improvement plan shall be determined by the county, informed by
25 the county MHSA self-assessment process, as described in
26 paragraph (2), with targets for improvement based upon what is
27 learned in the county MHSA self-assessment process.

28 (D) The county behavioral health agency shall complete an
29 annual progress report on the status of its system improvement
30 plan and shall submit these reports to the agency.

31 (e) (1) The agency shall receive, review, and, based on its
32 determination of whether the county MHSA system improvement
33 plan meets the required elements, certify as complete all
34 county-submitted performance indicator data, county MHSA
35 self-assessments, county MHSA system improvement plans, and
36 annual progress reports, and shall identify and promote the
37 replication of best practices in MHSA service delivery to achieve
38 the established process and outcome measures.

1 (2) The agency shall monitor, on an ongoing basis, county
2 performance on the measures developed pursuant to subdivision
3 (d).

4 (3) The agency shall make data collected pursuant to this section
5 publicly available on its internet website.

6 (4) The agency shall, on an annual basis, submit a report to the
7 Legislature that summarizes county performance on the established
8 process and outcome measures during the reporting period,
9 analyzes county performance trends over time, and makes findings
10 and recommendations for common MHSA services improvements
11 identified in the county MHSA self-assessments and county MHSA
12 system improvement plans, including information on common
13 statutory, regulatory, or fiscal barriers identified as inhibiting
14 system improvements and any recommendations to overcome
15 those barriers.

16 (5) (A) The agency shall provide or facilitate the provision of
17 technical assistance to county behavioral health agencies as part
18 of the peer review that supports the county's selected areas for
19 improvement, as described in its system improvement plan.

20 (B) If, in the course of its review of county MHSA system
21 improvement plans and annual updates, or, in the course of its
22 review of regularly submitted performance indicator data, the
23 agency determines that a county is consistently failing to make
24 progress toward its strategic focus areas for improvement or is
25 consistently failing to meet the process measure standard target
26 thresholds established pursuant to subparagraph (C) of paragraph
27 (1) of subdivision (d), the agency shall engage the county in a
28 process of targeted technical assistance and support to address and
29 resolve the identified shortcomings.

30 (f) A county shall execute and fulfill components of its MHSA
31 system improvement plan that can be accomplished with existing
32 resources.

33 SEC. 3. Section 5847 of the Welfare and Institutions Code is
34 amended to read:

35 5847. (a) Each county mental health program shall prepare
36 and submit a five-year program and expenditure plan, and annual
37 updates, adopted by the county board of supervisors, to the Mental
38 Health Services Oversight and Accountability Commission and
39 the State Department of Health Care Services within 30 days after
40 adoption.

1 (b) The five-year program and expenditure plan shall be based
2 on available unspent funds and estimated revenue allocations
3 provided by the state and in accordance with established
4 stakeholder engagement and planning requirements, as required
5 in Section 5848. The five-year program and expenditure plan and
6 annual updates shall include all of the following:

7 (1) A program for prevention and early intervention in
8 accordance with Part 3.6 (commencing with Section 5840).

9 (2) A program for services to children in accordance with Part
10 4 (commencing with Section 5850), to include a program pursuant
11 to Chapter 4 (commencing with Section 18250) of Part 6 of
12 Division 9 or provide substantial evidence that it is not feasible to
13 establish a wraparound program in that county.

14 (3) A program for services to adults and seniors in accordance
15 with Part 3 (commencing with Section 5800).

16 (4) A program for innovations in accordance with Part 3.2
17 (commencing with Section 5830).

18 (5) A program for technological needs and capital facilities
19 needed to provide services pursuant to Part 3 (commencing with
20 Section 5800), Part 3.6 (commencing with Section 5840), and Part
21 4 (commencing with Section 5850). All plans for proposed facilities
22 with restrictive settings shall demonstrate that the needs of the
23 people to be served cannot be met in a less restrictive or more
24 integrated setting, such as permanent supportive housing.

25 (6) Identification of shortages in personnel to provide services
26 pursuant to the above programs and the additional assistance
27 needed from the education and training programs established
28 pursuant to Part 3.1 (commencing with Section 5820).

29 (7) Establishment and maintenance of a prudent reserve to
30 ensure the county program will continue to be able to serve
31 children, adults, and seniors that it is currently serving pursuant
32 to Part 3 (commencing with Section 5800), the Adult and Older
33 Adult Mental Health System of Care Act, Part 3.6 (commencing
34 with Section 5840), Prevention and Early Intervention Programs,
35 and Part 4 (commencing with Section 5850), the Children's Mental
36 Health Services Act, during years in which revenues for the Mental
37 Health Services Fund are below recent averages adjusted by
38 changes in the state population and the California Consumer Price
39 Index.

1 (8) Certification by the county behavioral health director, which
2 ensures that the county has complied with all pertinent regulations,
3 laws, and statutes of the Mental Health Services Act, including
4 stakeholder participation and nonsupplantation requirements.

5 (9) Certification by the county behavioral health director and
6 by the county auditor-controller that the county has complied with
7 any fiscal accountability requirements as directed by the State
8 Department of Health Care Services, and that all expenditures are
9 consistent with the requirements of the Mental Health Services
10 Act.

11 (c) The programs established pursuant to paragraphs (2) and
12 (3) of subdivision (b) shall include services to address the needs
13 of transition age youth 16 to 25 years of age. In implementing this
14 subdivision, county mental health programs shall consider the
15 needs of transition age foster youth.

16 (d) Each year, the State Department of Health Care Services
17 shall inform the County Behavioral Health Directors Association
18 of California and the Mental Health Services Oversight and
19 Accountability Commission of the methodology used for revenue
20 allocation to the counties.

21 (e) Each county mental health program shall prepare expenditure
22 plans pursuant to Part 3 (commencing with Section 5800) for adults
23 and seniors, Part 3.2 (commencing with Section 5830) for
24 innovative programs, Part 3.6 (commencing with Section 5840)
25 for prevention and early intervention programs, and Part 4
26 (commencing with Section 5850) for services for children, and
27 updates to the plans developed pursuant to this section. Each
28 expenditure update shall indicate the number of children, adults,
29 and seniors to be served pursuant to Part 3 (commencing with
30 Section 5800), and Part 4 (commencing with Section 5850), and
31 the cost per person. The expenditure update shall include utilization
32 of unspent funds allocated in the previous year and the proposed
33 expenditure for the same purpose.

34 (f) A county mental health program shall include an allocation
35 of funds from a reserve established pursuant to paragraph (7) of
36 subdivision (b) for services pursuant to paragraphs (2) and (3) of
37 subdivision (b) in years in which the allocation of funds for services
38 pursuant to subdivision (e) are not adequate to continue to serve
39 the same number of individuals as the county had been serving in
40 the previous fiscal year.

1 (g) The department shall post on its internet website the five-year
2 program and expenditure plans submitted by every county pursuant
3 to subdivision (a) in a timely manner.

4 (h) (1) Notwithstanding subdivision (a), a county that is unable
5 to complete and submit a three-year program and expenditure plan
6 or annual update for the 2020–21 or 2021–22 fiscal years due to
7 the COVID-19 Public Health Emergency may extend the effective
8 timeframe of its currently approved three-year plan or annual
9 update to include the 2020–21 and 2021–22 fiscal years. The
10 county shall submit a three-year program and expenditure plan or
11 annual update to the Mental Health Services Oversight and
12 Accountability Commission and the State Department of Health
13 Care Services by July 1, 2022.

14 (2) For purposes of this subdivision, “COVID-19 Public Health
15 Emergency” means the federal Public Health Emergency
16 declaration made pursuant to Section 247d of Title 42 of the United
17 States Code on January 30, 2020, entitled “Determination that a
18 Public Health Emergency Exists Nationwide as the Result of the
19 2019 Novel Coronavirus,” and any renewal of that declaration.

20 (i) Notwithstanding paragraph (7) of subdivision (b) and
21 subdivision (f), a county may, during the 2020–21 and 2021–22
22 fiscal years, use funds from its prudent reserve for prevention and
23 early intervention programs created in accordance with Part 3.6
24 (commencing with Section 5840) and for services to persons with
25 severe mental illnesses pursuant to Part 4 (commencing with
26 Section 5850) for the children’s system of care and Part 3
27 (commencing with Section 5800) for the adult and older adult
28 system of care. These services may include housing assistance, as
29 defined in Section 5892.5, to the target population specified in
30 Section 5600.3.

31 (j) Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 the department, without taking any further regulatory action, may
34 implement, interpret, or make specific subdivisions (h) and (i) of
35 this section and subdivision (i) of Section 5892 by means of
36 all-county letters or other similar instructions.

37 SEC. 4. Section 5848 of the Welfare and Institutions Code is
38 amended to read:

39 5848. (a) Each five-year program and expenditure plan and
40 update shall be developed with local stakeholders, including adults

1 and seniors with severe mental illness, families of children, adults,
2 and seniors with severe mental illness, providers of services, law
3 enforcement agencies, education, social services agencies, veterans,
4 representatives from veterans organizations, providers of alcohol
5 and drug services, health care organizations, and other important
6 interests. Counties shall demonstrate a partnership with constituents
7 and stakeholders throughout the process that includes meaningful
8 stakeholder involvement on mental health policy, program
9 planning, and implementation, monitoring, quality improvement,
10 evaluation, and budget allocations. A draft plan and update shall
11 be prepared and circulated for review and comment for at least 30
12 days to representatives of stakeholder interests and any interested
13 party who has requested a copy of the draft plans.

14 (b) The mental health board established pursuant to Section
15 5604 shall conduct a public hearing on the draft five-year program
16 and expenditure plan and annual updates at the close of the 30-day
17 comment period required by subdivision (a). Each adopted
18 five-year program and expenditure plan and update shall include
19 any substantive written recommendations for revisions. The
20 adopted five-year program and expenditure plan or update shall
21 summarize and analyze the recommended revisions. The mental
22 health board shall review the adopted plan or update and make
23 recommendations to the local mental health agency or local
24 behavioral health agency, as applicable, for revisions. The local
25 mental health agency or local behavioral health agency, as
26 applicable, shall provide an annual report of written explanations
27 to the local governing body and the State Department of Health
28 Care Services for any substantive recommendations made by the
29 local mental health board that are not included in the final plan or
30 update.

31 (c) The plans shall include reports on the achievement of
32 performance outcomes for services pursuant to Part 3 (commencing
33 with Section 5800), Part 3.6 (commencing with Section 5840),
34 and Part 4 (commencing with Section 5850) funded by the Mental
35 Health Services Fund and established jointly by the State
36 Department of Health Care Services and the Mental Health Services
37 Oversight and Accountability Commission, in collaboration with
38 the County Behavioral Health Directors Association of California.

39 (d) Mental health services provided pursuant to Part 3
40 (commencing with Section 5800) and Part 4 (commencing with

1 Section 5850) shall be included in the review of program
2 performance by the California Behavioral Health Planning Council
3 required by paragraph (2) of subdivision (c) of Section 5772 and
4 in the local mental health board's review and comment on the
5 performance outcome data required by paragraph (7) of subdivision
6 (a) of Section 5604.2.

7 (e) The department shall annually post on its internet website
8 a summary of the performance outcomes reports submitted by
9 counties if clearly and separately identified by counties as the
10 achievement of performance outcomes pursuant to subdivision
11 (c).

12 (f) For purposes of this section, "substantive recommendations
13 made by the local mental health board" means any recommendation
14 that is brought before the board and approved by a majority vote
15 of the membership present at a public hearing of the local mental
16 health board that has established its quorum.

17 SEC. 5. Section 5891 of the Welfare and Institutions Code is
18 amended to read:

19 5891. (a) The funding established pursuant to this act shall be
20 utilized to expand mental health services. Except as provided in
21 subdivision (j) of Section 5892 due to the state's fiscal crisis, these
22 funds shall not be used to supplant existing state or county funds
23 utilized to provide mental health services. The state shall continue
24 to provide financial support for mental health programs with not
25 less than the same entitlements, amounts of allocations from the
26 General Fund or from the Local Revenue Fund 2011 in the State
27 Treasury, and formula distributions of dedicated funds as provided
28 in the last fiscal year which ended prior to the effective date of
29 this act. The state shall not make any change to the structure of
30 financing mental health services, which increases a county's share
31 of costs or financial risk for mental health services unless the state
32 includes adequate funding to fully compensate for the increased
33 costs or financial risk. These funds shall only be used to pay for
34 the programs authorized in Sections 5890 and 5892. These funds
35 may not be used to pay for any other program. These funds may
36 not be loaned to the General Fund or any other fund of the state,
37 or a county general fund or any other county fund for any purpose
38 other than those authorized by Sections 5890 and 5892.

39 (b) (1) Notwithstanding subdivision (a), and except as provided
40 in paragraph (2), the Controller may use the funds created pursuant

1 to this part for loans to the General Fund as provided in Sections
2 16310 and 16381 of the Government Code. Any such loan shall
3 be repaid from the General Fund with interest computed at 110
4 percent of the Pooled Money Investment Account rate, with interest
5 commencing to accrue on the date the loan is made from the fund.
6 This subdivision does not authorize any transfer that would
7 interfere with the carrying out of the object for which these funds
8 were created.

9 (2) This subdivision does not apply to the Supportive Housing
10 Program Subaccount created by subdivision (f) of Section 5890
11 or any moneys paid by the California Health Facilities Financing
12 Authority to the Department of Housing and Community
13 Development as a service fee pursuant to a service contract
14 authorized by Section 5849.35.

15 (c) Commencing July 1, 2012, on or before the 15th day of each
16 month, pursuant to a methodology provided by the State
17 Department of Health Care Services, the Controller shall distribute
18 to each Local Mental Health Service Fund established by counties
19 pursuant to subdivision (f) of Section 5892, all unexpended and
20 unreserved funds on deposit as of the last day of the prior month
21 in the Mental Health Services Fund, established pursuant to Section
22 5890, for the provision of programs and other related activities set
23 forth in Part 3 (commencing with Section 5800), Part 3.2
24 (commencing with Section 5830), Part 3.6 (commencing with
25 Section 5840), Part 3.9 (commencing with Section 5849.1), and
26 Part 4 (commencing with Section 5850).

27 (d) Counties shall base their expenditures on the county mental
28 health program's five-year program and expenditure plan or annual
29 update, as required by Section 5847. This subdivision shall not
30 affect subdivision (a) or (b).

31 SEC. 6. Section 5891.5 of the Welfare and Institutions Code
32 is amended to read:

33 5891.5. (a) (1) The programs in paragraphs (1) to (3),
34 inclusive, and paragraph (5) of subdivision (a) of Section 5890
35 may include substance use disorder treatment for children, adults,
36 and older adults with cooccurring mental health and substance use
37 disorders who are eligible to receive mental health services
38 pursuant to those programs. The MHSA includes persons with a
39 serious mental disorder and a diagnosis of substance abuse in the
40 definition of persons who are eligible for MHSA services in

1 Sections 5878.2 and 5813.5, which reference paragraph (2) of
2 subdivision (b) of Section 5600.3.

3 (2) Provision of substance use disorder services pursuant to this
4 section shall comply with all applicable requirements of the Mental
5 Health Services Act.

6 (3) Treatment of cooccurring mental health and substance use
7 disorders shall be identified in a county's five-year program and
8 expenditure plan or annual update, as required by Section 5847.

9 (b) (1) When a person being treated for cooccurring mental
10 health and substance use disorders pursuant to subdivision (a) is
11 determined to not need the mental health services that are eligible
12 for funding pursuant to the MHSA, the county shall refer the person
13 receiving treatment to substance use disorder treatment services
14 in a timely manner.

15 (2) Funding established pursuant to the MHSA may be used to
16 assess whether a person has cooccurring mental health and
17 substance use disorders and to treat a person who is preliminarily
18 assessed to have cooccurring mental health and substance use
19 disorders, even when the person is later determined not to be
20 eligible for services provided with funding established pursuant
21 to the MHSA.

22 (c) A county shall report to the department, in a form and
23 manner determined by the department, both of the following:

24 (1) The number of people assessed for cooccurring mental health
25 and substance use disorders.

26 (2) The number of people assessed for cooccurring mental health
27 and substance use disorders who were ultimately determined to
28 have only a substance use disorder without another cooccurring
29 mental health condition.

30 (d) The department shall by January 1, 2022, and each January
31 1 thereafter, publish on its internet website a report summarizing
32 county activities pursuant to this section for the prior fiscal year.
33 Data shall be reported statewide and by county or groupings of
34 counties, as necessary to protect the private health information of
35 persons assessed.

36 (e) (1) Notwithstanding Chapter 3.5 (commencing with Section
37 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
38 the department may implement, interpret, or make specific this
39 section by means of plan or county letters, information notices,

1 plan or provider bulletins, or other similar instructions, without
2 taking any further regulatory action.

3 (2) On or before July 1, 2025, the department shall adopt
4 regulations necessary to implement this section in accordance with
5 the requirements of Chapter 3.5 (commencing with Section 11340)
6 of Part 1 of Division 3 of Title 2 of the Government Code.

7 SEC. 7. Section 5892 of the Welfare and Institutions Code is
8 amended to read:

9 5892. (a) In order to promote efficient implementation of this
10 act, the county shall use funds distributed from the Mental Health
11 Services Fund as follows:

12 (1) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10
13 percent shall be placed in a trust fund to be expended for education
14 and training programs pursuant to Part 3.1 (commencing with
15 Section 5820).

16 (2) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10
17 percent for capital facilities and technological needs shall be
18 distributed to counties in accordance with a formula developed in
19 consultation with the County Behavioral Health Directors
20 Association of California to implement plans developed pursuant
21 to Section 5847.

22 (3) Twenty percent of funds distributed to the counties pursuant
23 to subdivision (c) of Section 5891 shall be used for prevention and
24 early intervention programs in accordance with Part 3.6
25 (commencing with Section 5840). *Commencing with the 2024–25*
26 *fiscal year, the percentage requirement in this paragraph shall*
27 *not apply.*

28 (4) The expenditure for prevention and early intervention may
29 be increased in any county in which the department determines
30 that the increase will decrease the need and cost for additional
31 services to persons with severe mental illness in that county by an
32 amount at least commensurate with the proposed increase.

33 (5) The balance of funds shall be distributed to county mental
34 health programs for services to persons with severe mental illnesses
35 pursuant to Part 4 (commencing with Section 5850) for the
36 children’s system of care and Part 3 (commencing with Section
37 5800) for the adult and older adult system of care. These services
38 may include housing assistance, as defined in Section 5892.5, to
39 the target population specified in Section 5600.3.

1 (6) Five percent of the total funding for each county mental
2 health program for Part 3 (commencing with Section 5800), Part
3 3.6 (commencing with Section 5840), and Part 4 (commencing
4 with Section 5850), shall be utilized for innovative programs in
5 accordance with Sections 5830, 5847, and 5848. *Commencing with*
6 *the 2024–25 fiscal year, the percentage requirement in this*
7 *paragraph shall not apply.*

8 (b) (1) In any fiscal year after the 2007–08 fiscal year, programs
9 for services pursuant to Part 3 (commencing with Section 5800)
10 and Part 4 (commencing with Section 5850) may include funds
11 for technological needs and capital facilities, human resource
12 needs, and a prudent reserve to ensure services do not have to be
13 significantly reduced in years in which revenues are below the
14 average of previous years. The total allocation for purposes
15 authorized by this subdivision shall not exceed 20 percent of the
16 average amount of funds allocated to that county for the previous
17 five fiscal years pursuant to this section.

18 (2) A county shall calculate an amount it establishes as the
19 prudent reserve for its Local Mental Health Services Fund, not to
20 exceed 33 percent of the average community services and support
21 revenue received for the fund in the preceding five years. The
22 county shall reassess the maximum amount of this reserve every
23 five years and certify the reassessment as part of the five-year
24 program and expenditure plan required pursuant to Section 5847.

25 (3) Notwithstanding Chapter 3.5 (commencing with Section
26 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
27 the State Department of Health Care Services may allow counties
28 to determine the percentage of funds to allocate across programs
29 created pursuant to Part 4 (commencing with Section 5850) for
30 the children’s system of care and Part 3 (commencing with Section
31 5800) for the adult and older adult system of care for the 2020–21
32 and 2021–22 fiscal years by means of all-county letters or other
33 similar instructions without taking further regulatory action.

34 (c) The allocations pursuant to subdivisions (a) and (b) shall
35 include funding for annual planning costs pursuant to Section 5848.
36 The total of these costs shall not exceed 5 percent of the total of
37 annual revenues received for the fund. The planning costs shall
38 include funds for county mental health programs to pay for the
39 costs of consumers, family members, and other stakeholders to
40 participate in the planning process and for the planning and

1 implementation required for private provider contracts to be
2 significantly expanded to provide additional services pursuant to
3 Part 3 (commencing with Section 5800) and Part 4 (commencing
4 with Section 5850).

5 (d) Prior to making the allocations pursuant to subdivisions (a),
6 (b), and (c), funds shall be reserved for the costs for the State
7 Department of Health Care Services, the California Behavioral
8 Health Planning Council, the Office of Statewide Health Planning
9 and Development, the Mental Health Services Oversight and
10 Accountability Commission, the State Department of Public Health,
11 and any other state agency to implement all duties pursuant to the
12 programs set forth in this section. These costs shall not exceed 5
13 percent of the total of annual revenues received for the fund. The
14 administrative costs shall include funds to assist consumers and
15 family members to ensure the appropriate state and county agencies
16 give full consideration to concerns about quality, structure of
17 service delivery, or access to services. The amounts allocated for
18 administration shall include amounts sufficient to ensure adequate
19 research and evaluation regarding the effectiveness of services
20 being provided and achievement of the outcome measures set forth
21 in Part 3 (commencing with Section 5800), Part 3.6 (commencing
22 with Section 5840), and Part 4 (commencing with Section 5850).
23 The amount of funds available for the purposes of this subdivision
24 in any fiscal year is subject to appropriation in the annual Budget
25 Act.

26 (e) In the 2004–05 fiscal year, funds shall be allocated as
27 follows:

28 (1) Forty-five percent for education and training pursuant to
29 Part 3.1 (commencing with Section 5820).

30 (2) Forty-five percent for capital facilities and technology needs
31 in the manner specified by paragraph (2) of subdivision (a).

32 (3) Five percent for local planning in the manner specified in
33 subdivision (c).

34 (4) Five percent for state implementation in the manner specified
35 in subdivision (d).

36 (f) Each county shall place all funds received from the State
37 Mental Health Services Fund in a Local Mental Health Services
38 Fund. The Local Mental Health Services Fund balance shall be
39 invested consistent with other county funds and the interest earned
40 on the investments shall be transferred into the fund. The earnings

1 on investment of these funds shall be available for distribution
2 from the fund in future fiscal years.

3 (g) All expenditures for county mental health programs shall
4 be consistent with a currently approved plan or update pursuant
5 to Section 5847.

6 (h) (1) Other than funds placed in a reserve in accordance with
7 an approved plan, any funds allocated to a county that have not
8 been spent for their authorized purpose within three years, and the
9 interest accruing on those funds, shall revert to the state to be
10 deposited into the Reversion Account, hereby established in the
11 fund, and available for other counties in future years, provided,
12 however, that funds, including interest accrued on those funds, for
13 capital facilities, technological needs, or education and training
14 may be retained for up to 10 years before reverting to the Reversion
15 Account.

16 (2) (A) If a county receives approval from the Mental Health
17 Services Oversight and Accountability Commission of a plan for
18 innovative programs, pursuant to subdivision (e) of Section 5830,
19 the county's funds identified in that plan for innovative programs
20 shall not revert to the state pursuant to paragraph (1) so long as
21 they are encumbered under the terms of the approved project plan,
22 including any subsequent amendments approved by the
23 commission, or until three years after the date of approval,
24 whichever is later.

25 (B) Subparagraph (A) applies to all plans for innovative
26 programs that have received commission approval and are in the
27 process at the time of enactment of the act that added this
28 subparagraph, and to all plans that receive commission approval
29 thereafter.

30 (3) Notwithstanding paragraph (1), funds allocated to a county
31 with a population of less than 200,000 that have not been spent
32 for their authorized purpose within five years shall revert to the
33 state as described in paragraph (1).

34 (4) (A) Notwithstanding paragraphs (1) and (2), if a county
35 with a population of less than 200,000 receives approval from the
36 Mental Health Services Oversight and Accountability Commission
37 of a plan for innovative programs, pursuant to subdivision (e) of
38 Section 5830, the county's funds identified in that plan for
39 innovative programs shall not revert to the state pursuant to
40 paragraph (1) so long as they are encumbered under the terms of

1 the approved project plan, including any subsequent amendments
2 approved by the commission, or until five years after the date of
3 approval, whichever is later.

4 (B) Subparagraph (A) applies to all plans for innovative
5 programs that have received commission approval and are in the
6 process at the time of enactment of the act that added this
7 subparagraph, and to all plans that receive commission approval
8 thereafter.

9 (i) Notwithstanding subdivision (h) and Section 5892.1, unspent
10 funds allocated to a county, and interest accruing on those funds,
11 which are subject to reversion as of July 1, 2019, and July 1, 2020,
12 shall be subject to reversion on July 1, 2021.

13 (j) If there are revenues available in the fund after the Mental
14 Health Services Oversight and Accountability Commission has
15 determined there are prudent reserves and no unmet needs for any
16 of the programs funded pursuant to this section, including all
17 purposes of the Prevention and Early Intervention Program, the
18 commission shall develop a plan for expenditures of these revenues
19 to further the purposes of this act and the Legislature may
20 appropriate these funds for any purpose consistent with the
21 commission's adopted plan that furthers the purposes of this act.

22 SEC. 8. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

Introduced by Senator EggmanFebruary 15, 2022

An act to amend Section 5346 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1035, as introduced, Eggman. Mental health services: assisted outpatient treatment.

The Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, as of July 1, 2021, requires a county or group of counties to provide mental health programs, as specified, unless a county or group of counties opts out by a resolution passed by the governing body stating the reasons for opting out and any facts or circumstances relied on in making that decision. Existing law authorizes participating counties to pay for the services provided from moneys distributed to the counties from various continuously appropriated funds, including the Mental Health Services Fund, when included in a county plan, as specified. Existing law authorizes a court to order a person who is the subject of a petition filed pursuant to specified requirements to obtain assisted outpatient treatment if the court finds, by clear and convincing evidence, that various conditions are met. Existing law requires that an order issued pursuant to those provisions state the categories of assisted outpatient treatment that the person who is the subject of the petition is to receive.

This bill would specify that court order also include medication when included in the treatment plan.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5346 of the Welfare and Institutions Code
 2 is amended to read:
 3 5346. (a) In any county or group of counties where services
 4 are available as provided in Section 5348, a court may order a
 5 person who is the subject of a petition filed pursuant to this section
 6 to obtain assisted outpatient treatment if the court finds, by clear
 7 and convincing evidence, that the facts stated in the verified
 8 petition filed in accordance with this section are true and establish
 9 that all of the requisite criteria set forth in this section are met,
 10 including, but not limited to, each of the following:
 11 (1) The person is 18 years of age or older.
 12 (2) The person is suffering from a mental illness as defined in
 13 paragraphs (2) and (3) of subdivision (b) of Section 5600.3.
 14 (3) There has been a clinical determination that, in view of the
 15 person’s treatment history and current behavior, at least one of the
 16 following is true:
 17 (A) The person is unlikely to survive safely in the community
 18 without supervision and the person’s condition is substantially
 19 deteriorating.
 20 (B) The person is in need of assisted outpatient treatment in
 21 order to prevent a relapse or deterioration that would be likely to
 22 result in grave disability or serious harm to the person or to others,
 23 as defined in Section 5150.
 24 (4) The person has a history of lack of compliance with
 25 treatment for the person’s mental illness, in that at least one of the
 26 following is true:
 27 (A) The person’s mental illness has, at least twice within the
 28 last 36 months, been a substantial factor in necessitating
 29 hospitalization, or receipt of services in a forensic or other mental
 30 health unit of a state correctional facility or local correctional
 31 facility, not including any period during which the person was
 32 hospitalized or incarcerated immediately preceding the filing of
 33 the petition.
 34 (B) The person’s mental illness has resulted in one or more acts
 35 of serious and violent behavior toward themselves or another, or
 36 threats, or attempts to cause serious physical harm to themselves
 37 or another within the last 48 months, not including any period in

1 which the person was hospitalized or incarcerated immediately
2 preceding the filing of the petition.

3 (5) The person has been offered an opportunity to participate
4 in a treatment plan by the director of the local mental health
5 department, or the director's designee, provided the treatment plan
6 includes all of the services described in Section 5348, and the
7 person continues to fail to engage in treatment.

8 (6) Participation in the assisted outpatient treatment program
9 would be the least restrictive placement necessary to ensure the
10 person's recovery and stability.

11 (7) It is likely that the person will benefit from assisted
12 outpatient treatment.

13 (b) (1) A petition for an order authorizing assisted outpatient
14 treatment may be filed by the county behavioral health director,
15 or the director's designee, in the superior court in the county in
16 which the person who is the subject of the petition is present or
17 reasonably believed to be present.

18 (2) A request may be made only by any of the following persons
19 to the county mental health department for the filing of a petition
20 to obtain an order authorizing assisted outpatient treatment:

21 (A) A person 18 years of age or older with whom the person
22 who is the subject of the petition resides.

23 (B) A person who is the parent, spouse, or sibling or child 18
24 years of age or older of the person who is the subject of the petition.

25 (C) The director of a public or private agency, treatment facility,
26 charitable organization, or licensed residential care facility
27 providing mental health services to the person who is the subject
28 of the petition in whose institution the subject of the petition
29 resides.

30 (D) The director of a hospital in which the person who is the
31 subject of the petition is hospitalized.

32 (E) A licensed mental health treatment provider who is either
33 supervising the treatment of, or treating for a mental illness, the
34 person who is the subject of the petition.

35 (F) A peace officer, parole officer, or probation officer assigned
36 to supervise the person who is the subject of the petition.

37 (G) A judge of a superior court before whom the person who
38 is the subject of the petition appears.

39 (3) Upon receiving a request pursuant to paragraph (2), the
40 county behavioral health director shall conduct an investigation

1 into the appropriateness of filing of the petition. The director shall
2 file the petition only if the director determines that there is a
3 reasonable likelihood that all the necessary elements to sustain the
4 petition can be proven in a court of law by clear and convincing
5 evidence.

6 (4) The petition shall state all of the following:

7 (A) Each of the criteria for assisted outpatient treatment as set
8 forth in subdivision (a).

9 (B) Facts that support the petitioner's belief that the person who
10 is the subject of the petition meets each criterion, provided that
11 the hearing on the petition shall be limited to the stated facts in
12 the verified petition, and the petition contains all the grounds on
13 which the petition is based, in order to ensure adequate notice to
14 the person who is the subject of the petition and that person's
15 counsel.

16 (C) That the person who is the subject of the petition is present,
17 or is reasonably believed to be present, within the county where
18 the petition is filed.

19 (D) That the person who is the subject of the petition has the
20 right to be represented by counsel in all stages of the proceeding
21 under the petition, in accordance with subdivision (c).

22 (5) (A) The petition shall be accompanied by an affidavit of a
23 licensed mental health treatment provider designated by the local
24 mental health director who shall state, if applicable, either of the
25 following:

26 (i) That the licensed mental health treatment provider has
27 personally examined the person who is the subject of the petition
28 no more than 10 days prior to the submission of the petition, the
29 facts and reasons why the person who is the subject of the petition
30 meets the criteria in subdivision (a), that the licensed mental health
31 treatment provider recommends assisted outpatient treatment for
32 the person who is the subject of the petition, and that the licensed
33 mental health treatment provider is willing and able to testify at
34 the hearing on the petition.

35 (ii) That, no more than 10 days prior to the filing of the petition,
36 the licensed mental health treatment provider, or the provider's
37 designee, has made appropriate attempts to elicit the cooperation
38 of the person who is the subject of the petition, but has not been
39 successful in persuading that person to submit to an examination,
40 that the licensed mental health treatment provider has reason to

1 believe that the person who is the subject of the petition meets the
2 criteria for assisted outpatient treatment, and that the licensed
3 mental health treatment provider is willing and able to examine
4 the person who is the subject of the petition and testify at the
5 hearing on the petition.

6 (B) An examining mental health professional in their affidavit
7 to the court shall address the issue of whether the defendant has
8 capacity to give informed consent regarding psychotropic
9 medication.

10 (c) The person who is the subject of the petition shall have the
11 right to be represented by counsel at all stages of a proceeding
12 commenced under this section. If the person so elects, the court
13 shall immediately appoint the public defender or other attorney to
14 assist the person in all stages of the proceedings. The person shall
15 pay the cost of the legal services if able to do so.

16 (d) (1) Upon receipt by the court of a petition submitted
17 pursuant to subdivision (b), the court shall fix the date for a hearing
18 at a time not later than five days from the date the petition is
19 received by the court, excluding Saturdays, Sundays, and holidays.
20 The petitioner shall promptly cause service of a copy of the
21 petition, together with written notice of the hearing date, to be
22 made personally on the person who is the subject of the petition,
23 and shall send a copy of the petition and notice to the county office
24 of patient rights, and to the current health care provider appointed
25 for the person who is the subject of the petition, if the provider is
26 known to the petitioner. Continuances shall be permitted only for
27 good cause shown. In granting continuances, the court shall
28 consider the need for further examination by a physician or the
29 potential need to provide expeditiously assisted outpatient
30 treatment. Upon the hearing date, or upon any other date or dates
31 to which the proceeding may be continued, the court shall hear
32 testimony. If it is deemed advisable by the court, and if the person
33 who is the subject of the petition is available and has received
34 notice pursuant to this section, the court may examine in or out of
35 court the person who is the subject of the petition who is alleged
36 to be in need of assisted outpatient treatment. If the person who is
37 the subject of the petition does not appear at the hearing, and
38 appropriate attempts to elicit the attendance of the person have
39 failed, the court may conduct the hearing in the person's absence.
40 If the hearing is conducted without the person present, the court

1 shall set forth the factual basis for conducting the hearing without
2 the person's presence. The person who is the subject of the petition
3 shall maintain the right to appear before the court in person, but
4 may appear by videoconferencing means if they choose to do so.

5 (2) The court shall not order assisted outpatient treatment unless
6 an examining licensed mental health treatment provider, who has
7 personally examined, and has reviewed the available treatment
8 history of, the person who is the subject of the petition within the
9 time period commencing 10 days before the filing of the petition,
10 testifies at the hearing. An examining mental health professional
11 may appear before the court by videoconferencing means.

12 (3) If the person who is the subject of the petition has refused
13 to be examined by a licensed mental health treatment provider,
14 the court may request that the person consent to an examination
15 by a licensed mental health treatment provider appointed by the
16 court. If the person who is the subject of the petition does not
17 consent and the court finds reasonable cause to believe that the
18 allegations in the petition are true, the court may order any person
19 designated under Section 5150 to take into custody the person who
20 is the subject of the petition and transport the person, or cause the
21 person to be transported, to a hospital for examination by a licensed
22 mental health treatment provider as soon as is practicable.
23 Detention of the person who is the subject of the petition under
24 the order may not exceed 72 hours. If the examination is performed
25 by another licensed mental health treatment provider, the
26 examining licensed mental health treatment provider may consult
27 with the licensed mental health treatment provider whose
28 affirmation or affidavit accompanied the petition regarding the
29 issues of whether the allegations in the petition are true and whether
30 the person meets the criteria for assisted outpatient treatment.

31 (4) The person who is the subject of the petition shall have all
32 of the following rights:

33 (A) To adequate notice of the hearings to the person who is the
34 subject of the petition, as well as to parties designated by the person
35 who is the subject of the petition.

36 (B) To receive a copy of the court-ordered evaluation.

37 (C) To counsel. If the person has not retained counsel, the court
38 shall appoint a public defender.

39 (D) To be informed of the right to judicial review by habeas
40 corpus.

1 (E) To be present at the hearing unless the person waives the
2 right to be present.

3 (F) To present evidence.

4 (G) To call witnesses on the person’s behalf.

5 (H) To cross-examine witnesses.

6 (I) To appeal decisions, and to be informed of the right to appeal.

7 (5) (A) If after hearing all relevant evidence, the court finds
8 that the person who is the subject of the petition does not meet the
9 criteria for assisted outpatient treatment, the court shall dismiss
10 the petition.

11 (B) If after hearing all relevant evidence, the court finds that
12 the person who is the subject of the petition meets the criteria for
13 assisted outpatient treatment, and there is no appropriate and
14 feasible less restrictive alternative, the court may order the person
15 who is the subject of the petition to receive assisted outpatient
16 treatment for an initial period not to exceed six months. In
17 fashioning the order, the court shall specify that the proposed
18 treatment is the least restrictive treatment appropriate and feasible
19 for the person who is the subject of the petition. The order shall
20 state the categories of assisted outpatient treatment, *including*
21 *medication when included in the treatment plan*, as set forth in
22 Section 5348, that the person who is the subject of the petition is
23 to receive, and the court may not order treatment that has not been
24 recommended by the examining licensed mental health treatment
25 provider and included in the written treatment plan for assisted
26 outpatient treatment as required by subdivision (e). If the person
27 has executed an advance health care directive pursuant to Chapter
28 2 (commencing with Section 4650) of Part 1 of Division 4.7 of
29 the Probate Code, any directions included in the advance health
30 care directive shall be considered in formulating the written
31 treatment plan.

32 (6) If the person who is the subject of a petition for an order for
33 assisted outpatient treatment pursuant to subparagraph (B) of
34 paragraph (5) refuses to participate in the assisted outpatient
35 treatment program, the court may order the person to meet with
36 the assisted outpatient treatment team designated by the director
37 of the assisted outpatient treatment program. The treatment team
38 shall attempt to gain the person’s cooperation with treatment
39 ordered by the court. The person may be subject to a 72-hour hold
40 pursuant to subdivision (f) only after the treatment team has

1 attempted to gain the person's cooperation with treatment ordered
2 by the court, and has been unable to do so.

3 (e) Assisted outpatient treatment shall not be ordered unless the
4 licensed mental health treatment provider recommending assisted
5 outpatient treatment to the court has submitted to the court a written
6 treatment plan that includes services as set forth in Section 5348,
7 and the court finds, in consultation with the county behavioral
8 health director, or the director's designee, all of the following:

9 (1) That the services are available from the county, or a provider
10 approved by the county, for the duration of the court order.

11 (2) That the services have been offered to the person by the
12 local director of mental health, or the director's designee, and the
13 person has been given an opportunity to participate on a voluntary
14 basis, and the person has failed to engage in, or has refused,
15 treatment.

16 (3) That all of the elements of the petition required by this article
17 have been met.

18 (4) That the treatment plan will be delivered to the county
19 behavioral health director, or to the director's appropriate designee.

20 (f) If, in the clinical judgment of a licensed mental health
21 treatment provider, the person who is the subject of the petition
22 has failed or has refused to comply with the treatment ordered by
23 the court, and, in the clinical judgment of the licensed mental health
24 treatment provider, efforts were made to solicit compliance, and,
25 in the clinical judgment of the licensed mental health treatment
26 provider, the person may be in need of involuntary admission to
27 a hospital for evaluation, the provider may request that persons
28 designated under Section 5150 take into custody the person who
29 is the subject of the petition and transport the person, or cause the
30 person to be transported, to a hospital, to be held up to 72 hours
31 for examination by a licensed mental health treatment provider to
32 determine if the person is in need of treatment pursuant to Section
33 5150. Any continued involuntary retention in a hospital beyond
34 the initial 72-hour period shall be pursuant to Section 5150. If at
35 any time during the 72-hour period the person is determined not
36 to meet the criteria of Section 5150, and does not agree to stay in
37 the hospital as a voluntary patient, the person shall be released and
38 any subsequent involuntary detention in a hospital shall be pursuant
39 to Section 5150. Failure to comply with an order of assisted
40 outpatient treatment alone may not be grounds for involuntary

1 civil commitment or a finding that the person who is the subject
2 of the petition is in contempt of court.

3 (g) If the director of the assisted outpatient treatment program
4 determines that the condition of the patient requires further assisted
5 outpatient treatment, the director shall apply to the court, prior to
6 the expiration of the period of the initial assisted outpatient
7 treatment order, for an order authorizing continued assisted
8 outpatient treatment for a period not to exceed 180 days from the
9 date of the order. The procedures for obtaining an order pursuant
10 to this subdivision shall be in accordance with subdivisions (a) to
11 (f), inclusive. The period for further involuntary outpatient
12 treatment authorized by a subsequent order under this subdivision
13 may not exceed 180 days from the date of the order.

14 (h) At intervals of not less than 60 days during an assisted
15 outpatient treatment order, the director of the outpatient treatment
16 program shall file an affidavit with the court that ordered the
17 outpatient treatment affirming that the person who is the subject
18 of the order continues to meet the criteria for assisted outpatient
19 treatment. At these times, the person who is the subject of the order
20 shall have the right to a hearing on whether or not the person still
21 meets the criteria for assisted outpatient treatment if they disagree
22 with the director's affidavit. The burden of proof shall be on the
23 director.

24 (i) During each 60-day period specified in subdivision (h), if
25 the person who is the subject of the order believes that they are
26 being wrongfully retained in the assisted outpatient treatment
27 program against their wishes, the person may file a petition for a
28 writ of habeas corpus, thus requiring the director of the assisted
29 outpatient treatment program to prove that the person who is the
30 subject of the order continues to meet the criteria for assisted
31 outpatient treatment.

32 (j) A person ordered to undergo assisted outpatient treatment
33 pursuant to this article, who was not present at the hearing at which
34 the order was issued, may immediately petition the court for a writ
35 of habeas corpus. Treatment under the order for assisted outpatient
36 treatment may not commence until the resolution of that petition.

37 (k) This section shall become operative on July 1, 2021.

O

Introduced by Senator EggmanFebruary 16, 2022

An act to add Article 7.1 (commencing with Section 1323.2) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health and care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1154, as introduced, Eggman. Facilities for mental health or substance use disorder crisis: database.

Existing law generally requires the State Department of Public Health to license, inspect, and regulate health facilities, defined to include, among other types of health facilities, an acute psychiatric hospital. Existing law generally requires the State Department of Social Services to license, inspect, and regulate various types of care facilities, including, among others, a community crisis home. Existing law requires the State Department of Health Care Services to license and regulate facilities that provide residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

This bill would require, by January 1, 2024, the State Department of Public Health, in consultation with the State Department of Health Care Services 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. The bill would require the database to include a minimum of specific information, including the contact information for a facility’s designated employee, and have the capacity to, among other things, enable searches to identify beds that are appropriate for the treatment of individuals in a mental health or substance use disorder crisis.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7.1 (commencing with Section 1323.2)
2 is added to Chapter 2 of Division 2 of the Health and Safety Code,
3 to read:

4
5 Article 7.1. Availability of Inpatient Care for Mental Health or
6 Substance Use Disorder Crisis
7

8 1323.2. (a) The State Department of Public Health, in
9 consultation with the State Department of Health Care Services
10 and the State Department of Social Services, shall develop a
11 real-time, internet-based database to collect, aggregate, and display
12 information about beds in inpatient psychiatric facilities, crisis
13 stabilization units, residential community mental health facilities,
14 and licensed residential alcoholism or drug abuse recovery or
15 treatment facilities in order to facilitate the identification and
16 designation of facilities for the temporary treatment of individuals
17 in mental health or substance use disorder crisis. The database
18 shall be operational by January 1, 2024.

19 (b) (1) Except as described in paragraph (3), the database
20 created pursuant to subdivision (a) shall include, at a minimum,
21 all of the following:

22 (A) The contact information for the facility’s designated
23 employee.

24 (B) The facility’s license type.

25 (C) Whether the facility provides substance use disorder, mental
26 health, or medical treatment.

27 (D) Whether the bed is secure for the treatment of a person who,
28 as a result of a mental health disorder, is a danger to others, or to
29 themselves, or gravely disabled, pursuant to Part 1 (commencing

1 with Section 5000) of Division 5 of the Welfare and Institutions
2 Code.

3 (E) The types of diagnoses for which the bed is appropriate.

4 (F) The age ranges for which the bed is appropriate.

5 (G) Whether the bed is available.

6 (2) The database created pursuant to subdivision (a) shall have
7 the capacity to do both of the following:

8 (A) Collect data.

9 (B) Enable searches to identify beds that are appropriate for the
10 treatment of individuals in a mental health or substance use disorder
11 crisis.

12 (3) The database shall not include any information relating to
13 state hospitals under the jurisdiction of the State Department of
14 State Hospitals.

15 (c) The department shall confer with stakeholders to inform the
16 development of the database. Stakeholders represented in this
17 process shall include, but not be limited to, the State Department
18 of Health Care Services, State Department of Social Services,
19 County Behavioral Health Directors Association of California,
20 and organizations that have experience providing inpatient
21 psychiatric care, organizations that have experience providing
22 psychiatric crisis stabilization, organizations that have experience
23 providing residential community mental health services, and
24 organizations that have experience providing residential alcoholism
25 or drug abuse recovery or treatment services. The department and
26 stakeholders shall consider strategies for facility use of the
27 database.

O

AMENDED IN SENATE MARCH 15, 2022

SENATE BILL

No. 1227

Introduced by Senator Eggman

February 17, 2022

An act to amend ~~Section 5150~~ *Sections 5270.35 and 5270.55* of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1227, as amended, Eggman. Involuntary—~~commitment~~. *commitment: intensive treatment.*

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of persons with specified mental disorders for the protection of the persons committed. Under the act, when a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled, the person may, upon probable cause, be taken into custody and placed in a facility designated by the county and approved by the State Department of Health Care Services for up to 72 hours for evaluation and treatment. *Under existing law, if a person is detained for 72 hours under those provisions, and has received an evaluation, the person may be certified for not more than 14 days of intensive treatment, as specified. Existing law further authorizes a person to be certified for an additional period of not more than 30 days of intensive treatment if the person remains gravely disabled and is unwilling or unable to accept treatment voluntarily. Existing law requires the person to be released at the end of the 30 days, except under specified circumstances, including, but not limited to, when the patient is subject to a conservatorship petition filed pursuant to specified provisions. Existing law requires an evaluation to be made when a gravely disabled person may need to be detained*

beyond the initial 14-day period, as to whether the person is likely to qualify for appointment of a conservator, and, if so, requires that referral to be made, as specified.

This bill would authorize an additional 30-day period of treatment if the patient is still in need of intensive treatment and the certification for the additional 30-day treatment period has begun. The bill also would make conforming changes to the evaluation requirements for determining whether the patient is likely to qualify for appointment of a conservator.

~~This bill would make technical, nonsubstantive changes to those provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5270.35 of the Welfare and Institutions
2 Code is amended to read:
3 5270.35. (a) A certification pursuant to this article shall be for
4 no more than 30 days of intensive treatment, *except as provided*
5 *in paragraph (4) of subdivision (b)*, and shall terminate only as
6 soon as the psychiatrist directly responsible for the person's
7 treatment believes, as a result of the psychiatrist's personal
8 observations, that the person no longer meets the criteria for the
9 certification, or is prepared to voluntarily accept treatment on a
10 referral basis or to remain on a voluntary basis in the facility
11 providing intensive treatment. However, in those situations in
12 which both a psychiatrist and psychologist have personally
13 evaluated or examined a person who is undergoing intensive
14 treatment and there is a collaborative treatment relationship
15 between the psychiatrist and the psychologist, either the psychiatrist
16 or psychologist may authorize the release of the person but only
17 after they have consulted with one another. In the event of a clinical
18 or professional disagreement regarding the early release of a person
19 who is undergoing intensive treatment, the person may not be
20 released unless the facility's medical director overrules the decision
21 of the psychiatrist or psychologist opposing the release. Both the
22 psychiatrist and psychologist shall enter their findings, concerns,
23 or objections into the person's medical record. If any other
24 professional person who is authorized to release the person believes

1 the person should be released before 30 days have elapsed, and
2 the psychiatrist directly responsible for the person's treatment
3 objects, the matter shall be referred to the medical director of the
4 facility for the final decision. However, if the medical director is
5 not a psychiatrist, ~~he or she~~ *they* shall appoint a designee who is
6 a psychiatrist. If the matter is referred, the person shall be released
7 before 30 days have elapsed only if the psychiatrist believes, as a
8 result of the psychiatrist's personal observations, that the person
9 no longer meets the criteria for certification, or is prepared to
10 voluntarily accept treatment on referral or to remain on a voluntary
11 basis in the facility providing intensive treatment.

12 (b) Any person who has been certified for 30 days of intensive
13 treatment under this article, shall be released at the end of 30 days
14 unless one or more of the following is applicable:

15 (1) The patient agrees to receive further treatment on a voluntary
16 basis.

17 (2) The patient is the subject of a conservatorship petition filed
18 pursuant to Chapter 3 (commencing with Section 5350).

19 (3) The patient is the subject of a petition for postcertification
20 treatment of a dangerous person filed pursuant to Article 6
21 (commencing with Section 5300).

22 (4) *The patient is still in need of intensive services and the*
23 *certification for an additional 30 days has begun. Under no*
24 *circumstance shall a person be certified under this article for more*
25 *than two consecutive periods of 30 days.*

26 (c) The amendments to this section made by Assembly Bill 348
27 of the 2003–04 Regular Session shall not be construed to revise
28 or expand the scope of practice of psychologists, as defined in
29 Chapter 6.6 (commencing with Section 2900) of Division 2 of the
30 Business and Professions Code.

31 *SEC. 2. Section 5270.55 of the Welfare and Institutions Code*
32 *is amended to read:*

33 5270.55. (a) Whenever it is contemplated that a gravely
34 disabled person may need to be detained beyond the end of the
35 14-day period of intensive treatment and prior to proceeding with
36 an additional 30-day certification, *or beyond the end of an initial*
37 *30-day period of intensive treatment and prior to proceeding with*
38 *a second consecutive 30-day certification*, the professional person
39 in charge of the facility shall cause an evaluation to be made, based
40 on the patient's current condition and past history, as to whether

1 it appears that the person, even after up to 30 days of additional
2 treatment, is likely to qualify for appointment of a conservator. If
3 the appointment of a conservator appears likely, the
4 conservatorship referral shall be made during the ~~14-day~~ *current*
5 period of intensive treatment.

6 (b) If it appears that with up to 30 days additional treatment a
7 person is likely to reconstitute sufficiently to obviate the need for
8 appointment of a conservator, then the person may be certified for
9 the additional 30 days.

10 (c) ~~Where no conservatorship referral has been~~ *When a*
11 *conservatorship referral has not been* made during the 14-day
12 period and ~~where it appears~~ during the 30-day certification ~~it~~
13 ~~appears~~ that the person is likely to require the appointment of a
14 conservator, *or when a conservatorship referral has not been made*
15 *during the initial 30-day period and it appears during the second*
16 *consecutive 30-day certification that the person is likely to require*
17 *the appointment of a conservator*, then the conservatorship referral
18 shall be made to allow sufficient time for conservatorship
19 investigation and other related procedures. If a temporary
20 conservatorship is obtained, it shall run concurrently with and not
21 consecutively to the 30-day certification period. The
22 conservatorship hearing shall be held by the 30th day of the
23 certification period. The maximum involuntary detention period
24 for gravely disabled persons pursuant to Sections 5150, 5250 and
25 5270.15 shall be limited to ~~47~~ 77 days. ~~Nothing in this section~~
26 ~~shall~~ *This section does not* prevent a person from exercising his
27 ~~or her~~ *their* right to a hearing as stated in Sections 5275 and 5353.

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 17, 2022. (JR11)**

Introduced by Senator EggmanFebruary 17, 2022

An act to add Section 5610.5 to the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1238, as introduced, Eggman. Behavioral health services: existing and projected needs.

Existing law, the Bronzan-McCorquodale Act, contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Existing law further provides that the mission of California's mental health system is to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings.

This bill would require 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 for each region in a specified manner and would require, as part of that process, councils of governments to provide the department-specified data. The bill would authorize a council of governments, within 30 days following notice of the determination from the department, to file with the department an objection to the department's determination of the region's existing and projected behavioral health need. The bill would

require the department to make a final written determination of the region’s existing and projected behavioral needs within 45 days of receiving an object. By adding to the duties of councils of governments, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5610.5 is added to the Welfare and
2 Institutions Code, to read:

3 5610.5. (a) The State Department of Health Care Services, in
4 consultation with each council of governments, where applicable,
5 shall determine the existing and projected need for behavioral
6 health services, for each region, in the following manner:

7 (1) The department’s determination shall be based upon
8 population projections produced by the Department of Finance,
9 incidence of behavioral health issues within the region, including
10 serious emotional disturbance among children and serious mental
11 illness among adults, frequency of referrals for assisted outpatient
12 treatment, frequency of psychiatric holds under Article 1
13 (commencing with Section 5150) of Chapter 1 of Part 1, frequency
14 and duration of conservatorships under Chapter 3 (commencing
15 with Section 5350) of Part 1, and an inventory of the continuum
16 of behavioral health services provided by the county behavioral
17 health department.

18 (2) Prior to developing the existing and projected behavioral
19 health need for a region, the department shall meet and consult
20 with the council of governments regarding the assumptions and
21 methodology to be used by the department to determine the
22 region’s behavioral health needs. The council of governments shall
23 provide behavioral health service access and utilization data for
24 the region, including, but not limited to, the total number of beds

1 or slots, total utilization, and unmet need, in all of the following
2 service categories:

3 (A) Prevention and wellness services for mental health and
4 substance use issues, including, but not limited to, services,
5 activities, and assessments that help identify individuals at risk of
6 a mental health or substance use disorder; support for communities,
7 families, and individuals in coping with stress and trauma;
8 dissemination of information on ways to promote resiliency; and
9 discouragement of risky behaviors.

10 (B) Outpatient services, including a variety of traditional clinical
11 outpatient services such as individual and group therapy and
12 ambulatory detoxification services.

13 (C) Peer and recovery services delivered in the community that
14 can be provided by individuals with lived experience, including
15 young adults and family members.

16 (D) Community supports, including flexible services designed
17 to enable individuals to remain in their homes and participate in
18 their communities, such as supportive housing, case management,
19 supported employment, and supported education.

20 (E) Intensive outpatient treatment services, including services
21 such as full-service partnerships, assertive community treatment
22 (ACT), and substance use intensive outpatient services that are
23 delivered using a multidisciplinary approach to support individuals
24 living with higher acuity behavioral health needs.

25 (F) Residential treatment provided on a short-term basis to divert
26 individuals from, or as a step down from, intensive services.

27 (G) Crisis services, including, but not limited to, a range of
28 services and supports such as crisis call centers, mobile crisis
29 services, and crisis residential services that assess, stabilize, and
30 treat individuals experiencing acute distress who may require
31 hospitalization.

32 (H) Intensive treatment services that are provided in structured,
33 facility-based settings to individuals who require 24-hours-a-day,
34 seven-days-a-week care, including inpatient psychiatric treatment
35 and clinically managed inpatient services.

36 (I) School-based behavioral health services.

37 (3) The department may accept or reject the information
38 provided by the council of governments or modify its own
39 assumptions or methodology based on the information provided.
40 After consultation with the council of governments, the department

1 shall make determinations, in writing, on the assumptions for each
2 of the factors listed in paragraph (2) and the methodology it will
3 use to determine the region’s behavioral health needs and shall
4 provide these determinations to the council of governments.

5 (4) (A) After consultation with the council of governments, the
6 department shall make a determination of the region’s existing
7 and projected behavioral health need based upon the assumptions
8 and methodology determined pursuant to paragraph (3). Within
9 30 days following notice of the determination from the department,
10 the council of governments may file with the department an
11 objection to the department’s determination of the region’s existing
12 and projected behavioral health need.

13 (B) An objection shall be based on, and shall provide
14 substantiation of, either of the following:

15 (i) The department failed to base its determination on the data
16 for the region. If an objection is filed under this clause, the council
17 of governments shall identify the data it believes should instead
18 be used for the determination and explain the basis for its rationale.

19 (ii) The regional behavioral health need determined by the
20 department is not a reasonable application of the methodology and
21 assumptions determined pursuant to paragraph (3). If an object is
22 filed under this clause, it shall include a proposed alternative
23 determination of its regional behavioral health need based upon
24 the determinations made in paragraph (3), including analysis of
25 why the proposed alternative would be a more reasonable
26 application of the methodology and assumptions determined
27 pursuant to paragraph (3).

28 (C) If a council of governments files an objection pursuant to
29 this paragraph and includes with the objection a proposed
30 alternative determination of its regional behavioral health need, it
31 shall also include documentation of its basis for the alternative
32 determination. Within 45 days of receiving an objection filed
33 pursuant to this section, the department shall consider the objection
34 and make a final written determination of the region’s existing and
35 projected behavioral health need that includes an explanation of
36 the information upon which the determination was made.

37 (b) For the purposes of this section, “council on governments”
38 has the same meaning as in Section 65582 of the Government
39 Code.

1 SEC. 2. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O

AMENDED IN SENATE APRIL 7, 2022

SENATE BILL

No. 1416

Introduced by Senator Eggman

February 18, 2022

An act to amend Section 1799.111 of the Health and Safety Code, and to amend Section 5008 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1416, as amended, Eggman. Mental health services: gravely disabled persons.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of a person who is a danger to themselves or others or who is gravely disabled. Existing law also provides for a conservator of the person or estate to be appointed for a person who is gravely disabled. Existing law, for the purposes of involuntary commitment and conservatorship, defines "gravely disabled," among other things, as a condition in which a person, as a result of a mental health disorder, is unable to provide for the basic personal needs of food, clothing, or shelter.

This bill would also include under the definition of "gravely disabled" a condition in which a person, as a result of a mental health disorder, is unable to provide for the basic personal needs of ~~personal~~ or medical care or self protection and ~~safety~~. *safety, as specified*. By increasing the level of service required of county mental health departments, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1799.111 of the Health and Safety Code
2 is amended to read:

3 1799.111. (a) Subject to subdivision (b), a licensed general
4 acute care hospital, as defined in subdivision (a) of Section 1250,
5 that is not a county-designated facility pursuant to Section 5150
6 of the Welfare and Institutions Code, a licensed acute psychiatric
7 hospital, as defined in subdivision (b) of Section 1250, that is not
8 a county-designated facility pursuant to Section 5150 of the
9 Welfare and Institutions Code, licensed professional staff of those
10 hospitals, or ~~any~~ a physician and surgeon, providing emergency
11 medical services in any department of those hospitals to a person
12 at the hospital is not civilly or criminally liable for detaining a
13 person if all of the following conditions exist during the detention:

14 (1) The person cannot be safely released from the hospital
15 because, in the opinion of the treating physician and surgeon, or
16 a clinical psychologist with the medical staff privileges, clinical
17 privileges, or professional responsibilities provided in Section
18 1316.5, the person, as a result of a mental health disorder, presents
19 a danger to themselves, or others, or is gravely disabled. For
20 purposes of this paragraph, “gravely disabled” ~~means an inability~~
21 ~~to provide for the person’s basic personal needs for food, clothing,~~
22 ~~or shelter.~~ *has the same definition as in paragraph (1) of*
23 *subdivision (h) of Section 5008 of the Welfare and Institutions*
24 *Code.*

25 (2) The hospital staff, treating physician and surgeon, or
26 appropriate licensed mental health professional, have made, and
27 documented, repeated unsuccessful efforts to find appropriate
28 mental health treatment for the person.

29 (A) Telephone calls or other contacts required pursuant to this
30 paragraph shall commence at the earliest possible time when the

1 treating physician and surgeon has determined the time at which
2 the person will be medically stable for transfer.

3 (B) ~~In no case shall the~~ *The* contacts required pursuant to this
4 paragraph *shall not* begin after the time when the person becomes
5 medically stable for transfer.

6 (3) The person is not detained beyond 24 hours.

7 (4) There is probable cause for the detention.

8 (b) If the person is detained pursuant to subdivision (a) beyond
9 eight hours, but less than 24 hours, both of the following additional
10 conditions shall be met:

11 (1) A discharge or transfer for appropriate evaluation or
12 treatment for the person has been delayed because of the need for
13 continuous and ongoing care, observation, or treatment that the
14 hospital is providing.

15 (2) In the opinion of the treating physician and surgeon, or a
16 clinical psychologist with the medical staff privileges or
17 professional responsibilities provided for in Section 1316.5, the
18 person, as a result of a mental health disorder, is still a danger to
19 themselves, or others, or is gravely disabled, as defined in
20 paragraph (1) of subdivision (a).

21 (c) In addition to the immunities set forth in subdivision (a), a
22 licensed general acute care hospital, as defined in subdivision (a)
23 of Section 1250, that is not a county-designated facility pursuant
24 to Section 5150 of the Welfare and Institutions Code, a licensed
25 acute psychiatric hospital, as defined by subdivision (b) of Section
26 1250, that is not a county-designated facility pursuant to Section
27 5150 of the Welfare and Institutions Code, licensed professional
28 staff of those hospitals, or a physician and surgeon, providing
29 emergency medical services in any department of those hospitals
30 to a person at the hospital shall not be civilly or criminally liable
31 for the actions of a person detained up to 24 hours in those hospitals
32 who is subject to detention pursuant to subdivision (a) after that
33 person's release from the detention at the hospital, if all of the
34 following conditions exist during the detention:

35 (1) The person has not been admitted to a licensed general acute
36 care hospital or a licensed acute psychiatric hospital for evaluation
37 and treatment pursuant to Section 5150 of the Welfare and
38 Institutions Code.

39 (2) The release from the licensed general acute care hospital or
40 the licensed acute psychiatric hospital is authorized by a physician

1 and surgeon or a clinical psychologist with the medical staff
2 privileges or professional responsibilities provided for in Section
3 1316.5, who determines, based on a face-to-face examination of
4 the person detained, that the person does not present a danger to
5 themselves or others and is not gravely disabled, as defined in
6 paragraph (1) of subdivision (a). In order for this paragraph to
7 apply to a clinical psychologist, the clinical psychologist shall have
8 a collaborative treatment relationship with the physician and
9 surgeon. The clinical psychologist may authorize the release of
10 the person from the detention, but only after the clinical
11 psychologist has consulted with the physician and surgeon. In the
12 event of a clinical or professional disagreement regarding the
13 release of a person subject to the detention, the detention shall be
14 maintained unless the hospital's medical director overrules the
15 decision of the physician and surgeon opposing the release. Both
16 the physician and surgeon and the clinical psychologist shall enter
17 their findings, concerns, or objections in the person's medical
18 record.

19 (d) Notwithstanding any other law, an examination, assessment,
20 or evaluation that provides the basis for a determination or opinion
21 of a physician and surgeon or a clinical psychologist with the
22 medical staff privileges or professional responsibilities provided
23 for in Section 1316.5 that is specified in this section may be
24 conducted using telehealth.

25 (e) This section does not affect the responsibility of a general
26 acute care hospital or an acute psychiatric hospital to comply with
27 all state laws and regulations pertaining to the use of seclusion and
28 restraint and psychiatric medications for psychiatric patients.
29 Persons detained under this section shall retain their legal rights
30 regarding consent for medical treatment.

31 (f) A person detained under this section shall be credited for the
32 time detained, up to 24 hours, if the person is placed on a
33 subsequent 72-hour hold pursuant to Section 5150 of the Welfare
34 and Institutions Code.

35 (g) The amendments to this section made by Chapter 308 of the
36 Statutes of 2007 do not limit any existing duties for
37 psychotherapists contained in Section 43.92 of the Civil Code.

38 (h) This section does not expand the scope of licensure of
39 clinical psychologists.

1 SECTION 1.

2 SEC. 2. Section 5008 of the Welfare and Institutions Code is
3 amended to read:

4 5008. Unless the context otherwise requires, the following
5 definitions shall govern the construction of this part:

6 (a) "Evaluation" consists of multidisciplinary professional
7 analyses of a person's medical, psychological, educational, social,
8 financial, and legal conditions that appear to constitute a problem.
9 Persons providing evaluation services shall be properly qualified
10 professionals and may be full-time employees of an agency
11 providing face-to-face, including telehealth, evaluation services,
12 part-time employees, or persons employed on a contractual basis.

13 (b) "Court-ordered evaluation" means an evaluation ordered by
14 a superior court pursuant to Article 2 (commencing with Section
15 5200) or by a superior court pursuant to Article 3 (commencing
16 with Section 5225) of Chapter 2.

17 (c) "Intensive treatment" consists of hospital and other services
18 as indicated. Intensive treatment shall be provided by properly
19 qualified professionals and carried out in facilities qualifying for
20 reimbursement under the California Medical Assistance Program
21 (Medi-Cal) set forth in Chapter 7 (commencing with Section
22 14000) of Part 3 of Division 9, or under Title XVIII of the federal
23 Social Security Act and regulations thereunder. Intensive treatment
24 may be provided in hospitals of the United States government by
25 properly qualified professionals. This part does not prohibit an
26 intensive treatment facility from also providing 72-hour evaluation
27 and treatment.

28 (d) (1) "Referral" means referral of persons by each agency or
29 facility providing assessment, evaluation, crisis intervention, or
30 treatment services to other agencies or individuals. The purpose
31 of referral is to provide for continuity of care, and may include,
32 but need not be limited to, informing the person of available
33 services, making appointments on the person's behalf, discussing
34 the person's problem with the agency or individual to which the
35 person has been referred, appraising the outcome of referrals, and
36 arranging for personal escort and transportation when necessary.
37 Referral shall be considered complete when the agency or
38 individual to whom the person has been referred accepts
39 responsibility for providing the necessary services. All persons
40 shall be advised of available precare services that prevent initial

1 recourse to hospital treatment or aftercare services that support
2 adjustment to community living following hospital treatment.
3 These services may be provided through county or city mental
4 health departments, state hospitals under the jurisdiction of the
5 State Department of State Hospitals, regional centers under contract
6 with the State Department of Developmental Services, or other
7 public or private entities.

8 (2) Each agency or facility providing evaluation services shall
9 maintain a current and comprehensive file of all community
10 services, both public and private. These files shall contain current
11 agreements with agencies or individuals accepting referrals, as
12 well as appraisals of the results of past referrals.

13 (e) “Crisis intervention” consists of an interview or series of
14 interviews within a brief period of time, conducted by qualified
15 professionals, and designed to alleviate personal or family
16 situations that present a serious and imminent threat to the health
17 or stability of the person or the family. The interview or interviews
18 may be conducted in the home of the person or family, or on an
19 inpatient or outpatient basis with the therapy or other services, as
20 appropriate. The interview or interviews may include family
21 members, significant support persons, providers, or other entities
22 or individuals, as appropriate and as authorized by law. Crisis
23 intervention may, as appropriate, include suicide prevention,
24 psychiatric, welfare, psychological, legal, or other social services.

25 (f) “Prepetition screening” is a screening of all petitions for
26 court-ordered evaluation as provided in Article 2 (commencing
27 with Section 5200) of Chapter 2, consisting of a professional
28 review of all petitions; an interview with the petitioner and,
29 whenever possible, the person alleged, as a result of a mental health
30 disorder, to be a danger to others, or to themselves, or to be gravely
31 disabled, to assess the problem and explain the petition; when
32 indicated, efforts to persuade the person to receive, on a voluntary
33 basis, comprehensive evaluation, crisis intervention, referral, and
34 other services specified in this part.

35 (g) “Conservatorship investigation” means investigation by an
36 agency appointed or designated by the governing body of cases in
37 which conservatorship is recommended pursuant to Chapter 3
38 (commencing with Section 5350).

39 (h) (1) For purposes of Article 1 (commencing with Section
40 5150), Article 2 (commencing with Section 5200), and Article 4

1 (commencing with Section 5250) of Chapter 2, and for the purposes
2 of Chapter 3 (commencing with Section 5350), “gravely disabled”
3 means either of the following:

4 (A) A condition in which a person, as a result of a mental health
5 disorder, is unable to provide for their basic personal needs for
6 food, clothing, shelter, ~~personal~~ or medical care, or self protection
7 and safety. *A person is unable to provide for their basic personal*
8 *needs for medical care or self protection and safety when the*
9 *person is at risk of substantial bodily harm, dangerous worsening*
10 *of any concomitant serious physical illness, significant psychiatric*
11 *deterioration, or mismanagement of their basic needs that could*
12 *result in substantial bodily harm.*

13 (B) A condition in which a person, has been found mentally
14 incompetent under Section 1370 of the Penal Code and all of the
15 following facts exist:

16 (i) The complaint, indictment, or information pending against
17 the person at the time of commitment charges a felony involving
18 death, great bodily harm, or a serious threat to the physical
19 well-being of another person.

20 (ii) There has been a finding of probable cause on a complaint
21 pursuant to paragraph (2) of subdivision (a) of Section 1368.1 of
22 the Penal Code, a preliminary examination pursuant to Section
23 859b of the Penal Code, or a grand jury indictment, and the
24 complaint, indictment, or information has not been dismissed.

25 (iii) As a result of a mental health disorder, the person is unable
26 to understand the nature and purpose of the proceedings taken
27 against them and to assist counsel in the conduct of the person’s
28 defense in a rational manner.

29 (iv) The person represents a substantial danger of physical harm
30 to others by reason of a mental disease, defect, or disorder.

31 (2) For purposes of Article 3 (commencing with Section 5225)
32 and Article 4 (commencing with Section 5250), of Chapter 2, and
33 for the purposes of Chapter 3 (commencing with Section 5350),
34 “gravely disabled” means a condition in which a person, as a result
35 of impairment by chronic alcoholism, is unable to provide for their
36 basic personal needs for food, clothing, or shelter.

37 (3) The term “gravely disabled” does not include persons with
38 intellectual disabilities by reason of that disability alone.

39 (i) “Peace officer” means a duly sworn peace officer as that
40 term is defined in Chapter 4.5 (commencing with Section 830) of

1 Title 3 of Part 2 of the Penal Code who has completed the basic
2 training course established by the Commission on Peace Officer
3 Standards and Training, or a parole officer or probation officer
4 specified in Section 830.5 of the Penal Code when acting in relation
5 to cases for which the officer has a legally mandated responsibility.

6 (j) "Postcertification treatment" means an additional period of
7 treatment pursuant to Article 6 (commencing with Section 5300)
8 of Chapter 2.

9 (k) "Court," unless otherwise specified, means a court of record.

10 (l) "Antipsychotic medication" means medication customarily
11 prescribed for the treatment of symptoms of psychoses and other
12 severe mental and emotional disorders.

13 (m) "Emergency" means a situation in which action to impose
14 treatment over the person's objection is immediately necessary
15 for the preservation of life or the prevention of serious bodily harm
16 to the patient or others, and it is impracticable to first gain consent.
17 It is not necessary for harm to take place or become unavoidable
18 prior to treatment.

19 (n) "Designated facility" or "facility designated by the county
20 for evaluation and treatment" means a facility that is licensed or
21 certified as a mental health treatment facility or a hospital, as
22 defined in subdivision (a) or (b) of Section 1250 of the Health and
23 Safety Code, by the State Department of Public Health, and may
24 include, but is not limited to, a licensed psychiatric hospital, a
25 licensed psychiatric health facility, and a certified crisis
26 stabilization unit.

27 ~~SEC. 2.~~

28 SEC. 3. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.

Re: Resolution for Introduction - supporting Senator Eggman's legislation modernizing our behavioral health continuum

Thornhill, Jackie (BOS) <jackie.thornhill@sfgov.org>

Tue 4/12/2022 2:49 PM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>

Hi Jocelyn,

The California State Association of Counties and League of California Cities have not yet taken a position on these bills.

Best,
Jackie

Jackie Thornhill (she/her/hers)

Legislative Aide

Office of Supervisor Rafael Mandelman, District 8

Jackie.Thornhill@sfgov.org | (415) 554-4488

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Sent: Tuesday, April 12, 2022 2:46 PM

To: Thornhill, Jackie (BOS) <jackie.thornhill@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>

Subject: RE: Resolution for Introduction - supporting Senator Eggman's legislation modernizing our behavioral health continuum

Hi Jackie,

Pursuant to [Board Rule 2.8.2](#), please provide the following to complete this submission:

- confirm that organizations such as the [California State Association of Counties](#) and [League of California Cities](#) have *not* taken a position on these bills. If they have, please provide a copy of their statement for completeness of the file

Best regards,

Jocelyn Wong

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T: 415.554.7702 | F: 415.554.5163

jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

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From: Thornhill, Jackie (BOS) <jackie.thornhill@sfgov.org>

Sent: Tuesday, April 12, 2022 2:32 PM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>

Subject: Resolution for Introduction - supporting Senator Eggman's legislation modernizing our behavioral health continuum

Good afternoon,

Attached please find documents re: Supervisor Mandelman's introduction of a resolution urging the California State Legislature to pass SB 929, SB 965, SB 970, SB 1035, SB 1154, SB 1227, SB 1238, and SB 1416.

This resolution is routine, not contentious in nature, and of no special interest.

Supervisor Mandelman is the signatory and can confirm via email.

Best,
Jackie

Jackie Thornhill (she/her/hers)

Legislative Aide

Office of Supervisor Rafael Mandelman, District 8

Jackie.Thornhill@sfgov.org |(415) 554-4488