

LEGISLATIVE DIGEST

[Health Code - Extending Involuntary Psychiatric Holds]

Ordinance amending the Health Code to authorize the use of an additional 30-day involuntary psychiatric hold as permitted under California Welfare and Institutions Code, Sections 5270.10-5270.65, and making a finding that this authorization will not result in increased costs to the City or in the reduction of current services.

Existing Law

Under California Welfare & Institutions Code §§ 5150, et seq., if there is probable cause to believe that an individual is a danger to him or herself, or to others, or is gravely disabled, due to a mental disorder, that individual may be taken into custody for 72 hours for an evaluation and possible treatment.

At the end of that 72-hour period, the individual may be involuntarily detained under California Welfare & Institutions Code §§ 5250, et seq., for an additional 14 days of intensive treatment, upon certification by two treating mental health professionals, and subject to review and challenge by the individual and the individual's patient advocate or attorney.

There are situations when the additional 14 days are not sufficient to complete a thorough assessment, achieve patient stabilization, determine future treatment options, and investigate family and/or community resources that can support the individual in the community. However, currently, in order to hold that individual for additional evaluation and treatment, the Public Conservator must seek a court order placing that individual a temporary conservatorship.

Amendments to Current Law

California Welfare and Institutions Code §§ 5270.10 - 5270.65 (Article 4.7 of Chapter 2 of the Lanterman-Petris-Short (LPS) Act) authorizes not more than a 30-day extension of the 14-day hold, for additional treatment without the need for a court-ordered temporary conservatorship, for a maximum total of 47 days, which includes the initial 72-hour hold under § 5150. State law requires legislative action by the county in order to authorize this 30-day extension subject to findings that no current programs will be reduced by implementing Welfare & Institutions Code §§ 5270, et seq. ("§ 5270 hold").

These amendments make those findings, and authorize the use of a § 5270 hold in San Francisco.

Background Information

In enacting California Welfare and Institutions Code §§ 5270.10 - 5270.65, the Legislature stated its intent: “to reduce the number of gravely disabled persons for whom conservatorship petitions are filed and who are placed under the extensive powers and authority of a temporary conservator simply to obtain an additional period of treatment without the belief that a conservator is actually needed and without the intention of proceeding to trial on the conservatorship petition. This change will substantially reduce the number of conservatorship petitions filed and temporary conservatorships granted under this part which do not result in either a trial or a conservatorship.”

The use of a hold under California Welfare and Institutions Code §§ 5270, et seq. (a “§ 5270 hold”) better serves the needs and interests of the client, and allows these patients to avoid the stigma and restrictions of a conservatorship. Any person certified for an additional 30 days is entitled to an impartial certification review hearing, within four days of that determination, conducted by a court appointed commissioner or certification review hearing officer. The patient is also entitled to the assistance of an attorney or advocate. Unlike a conservatorship hearing, a § 5270 certification hearing is held at the treatment facility where the patient is located, and patient does not have to appear in court.

The San Francisco Public Conservator receives approximately 300-400 referrals for Temporary Conservatorships (T-Con) annually. In order for the court to grant a T-Con, the referral must be investigated, which takes between 6 to 10 hours, at a cost of \$125.00 per hour. More than half of these T-Cons are for less than 30 days. During FY 2011-12, the San Francisco Superior Court granted 255 applications for T-Cons, and during FY 2012-13, the court granted 190 T-Con applications. Thus, far more petitions are filed and investigated than actually result in a T-Con. If these individuals were placed on a § 5270 hold, rather than a T-Con, an investigation would be unnecessary, thereby saving the City and County of San Francisco \$150,000 to \$200,000 annually, and the individual would receive treatment under a less restrictive alternative.

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