

File No. 140306

Committee Item No. 5

Board Item No. 10

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Neighborhood Services & Safety

Date October 2, 2014

Board of Supervisors Meeting

Date October 28, 2014

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
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OTHER (Use back side if additional space is needed)

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Completed by: Derek Evans Date 9/26/14  
 Completed by: Derek Evans Date 10/15/14

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
 The complete document can be found in the file.

1 [Health Code - Extending Involuntary Psychiatric Holds]

2

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

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

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

15 Section 1. The Health Code is hereby amended by adding to Article 41 a Division I,  
16 consisting of §§ 4101-4102, to read as follows:

17 ARTICLE 41: MENTAL HEALTH

18 DIVISION I: PSYCHIATRIC HOLDS.

19 Sec. 4101. Findings Regarding Psychiatric Holds.

20 Sec. 4102. Extension of Psychiatric Hold.

21 SEC. 4101. FINDINGS REGARDING PSYCHIATRIC HOLDS.

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

(b) 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 assessment and

1 treatment, upon certification by two treating mental health professionals, and subject to review and  
2 challenge by the individual and the individual's patient advocate or attorney.

3 (c) There are situations when the additional 14 days are not sufficient to complete a thorough  
4 assessment, achieve patient stabilization, determine future treatment options, and investigate family  
5 and/or community resources that can support the individual in the community.

6 (d) Insufficient time for a thorough assessment, treatment, and investigation often results in  
7 more restrictive and costly institutional placements of these individuals who then become subject to the  
8 supervision of a court-ordered conservatorship, adding to the costs and number of cases handled by the  
9 San Francisco Public Conservator and the Superior Court.

10 (e) California Welfare and Institutions Code §§ 5270.10 - 5270.65 (Article 4.7 of Chapter 2 of  
11 the Lanterman-Petris-Short (LPS) Act) authorizes up to a 30-day extension of the 14-day hold, for  
12 additional treatment without the need for a court-ordered temporary conservatorship, for a maximum  
13 total of 47 days, which includes the initial 72-hour hold under § 5150. In California Welfare and  
14 Institutions Code § 5270.10, the Legislature stated its intent "to reduce the number of gravely disabled  
15 persons for whom conservatorship petitions are filed and who are placed under the extensive powers  
16 and authority of a temporary conservator simply to obtain an additional period of treatment without  
17 the belief that a conservator is actually needed and without the intention of proceeding to trial on the  
18 conservatorship petition. This change will substantially reduce the number of conservatorship petitions  
19 filed and temporary conservatorships granted under this part which do not result in either a trial or a  
20 conservatorship."

21 (f) For California Welfare and Institutions Code §§ 5270.10 - 5270.65 to be operative in a  
22 county, the county must legislatively authorize its application in that county upon finding that any  
23 additional costs incurred by the county in implementation of those provisions are funded either by new  
24 funding sufficient to cover the resulting costs incurred by the county, or funds redirected from cost  
25

1 savings resulting from implementation, or a combination thereof, so that no current services will be  
2 reduced as a result of implementation.

3 (g) The use of a hold under California Welfare and Institutions Code §§ 5270, et seq. (a  
4 “§ 5270 hold”) better serves the needs and interests of the client, and allows these patients to avoid the  
5 stigma and restrictions of a conservatorship. Any person certified for an additional 30 days is entitled  
6 to an impartial certification review hearing, within four days of that determination, conducted by a  
7 court appointed commissioner or certification review hearing officer. The patient is also entitled to the  
8 assistance of an attorney or advocate. Unlike a conservatorship hearing, a § 5270 certification  
9 hearing is held at the treatment facility where the patient is located, and patient does not have to  
10 appear in court.

11 (h) During FY 2011-12, the San Francisco Public Conservator filed 394 petitions for  
12 Conservatorships with the San Francisco Superior Court. Of those cases filed, the court granted 255  
13 Temporary Conservatorships. During FY 2012-13, 284 petitions were filed and the San Francisco  
14 Superior Court granted 190 applications for Temporary Conservatorships. Thus, far more petitions are  
15 filed and investigated than actually result in a Temporary Conservatorship. Authorizing the option of a  
16 § 5270 hold in the City and County of San Francisco would obviate the need for many of these  
17 petitions.

18 (i) For the majority of patients currently placed under a temporary conservatorship, the  
19 temporary conservatorship is dropped within 40 days. The use of the § 5270 hold allows a thorough  
20 investigation of these clients in order to regulate medications to achieve stabilization and to develop  
21 the skill set necessary for returning to the community.

22 (j) The San Francisco Public Conservator receives approximately 300-400 referrals for  
23 Temporary Conservatorships annually. In order for the court to grant a Temporary Conservatorship,  
24 the referral must be investigated, which can take between 6 to 10 hours, at a cost of \$125.00 per hour,  
25 as of the effective date of this § 4101. More than half of these Conservatorships are for less than 30

1 days. If these individuals were placed on a § 5270 hold, rather than a conservatorship, an  
2 investigation would be unnecessary, thereby saving the City and County of San Francisco \$150,000 to  
3 \$200,000 annually, and the individual would receive treatment under a less restrictive alternative.

4 (k) Any additional costs incurred by the City and County of San Francisco in the  
5 implementation of California Welfare and Institutions Code §§ 5270.10 - 5270.65 will be funded by the  
6 resulting cost savings or by new funding, so that no current service reductions will occur.

7 **SEC. 4102. EXTENSION OF PSYCHIATRIC HOLD.**

8 Upon the completion of a 14-day period of intensive treatment as authorized under California  
9 Welfare & Institutions § 5250 et. seq., the subject individual may be certified for an additional period  
10 of not more than 30 days of intensive treatment as authorized under Welfare and Institutions Code  
11 §§ 5270.10 - 5270.65, subject to the requirements and procedures of those sections, or any successor  
provisions.

13 Section 2. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides the Mayor's veto of the ordinance.

18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By:  for  
21 VIRGINIA DARIO ELIZONDO  
22 Deputy City Attorney

23 n:\egana\as2014\1400244\00965829.doc



**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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City and County of San Francisco  
Edwin M. Lee, Mayor



Department of Aging and Adult Services  
E. ANNE HINTON, Executive Director

March 24, 2014

Ms. Angela Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
#1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
MARCH 28 PM 2:10  
WZ

RE: Ordinance Amending the Health Code to Authorize Use of Extended Involuntary Psychiatric Holds

Dear Ms. Calvillo:

Enclosed please find a proposed ordinance for approval by the Board of Supervisors pertaining to the use of extended involuntary psychiatric holds. So called "§ 5270 holds" are authorized under state statute, subject to legislative approval by the county Board of Supervisors.

If you would like additional information, please contact Shireen McSpadden, Deputy Director of the Department of Aging and Adult Services, at (415) 355-6767. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anne Hinton".

Anne Hinton  
Executive Director, Policy & Planning

Enclosures

