



**NEVADA COUNTY
HEALTH & HUMAN SERVICES
AGENCY**

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NEVADA COUNTY BOARD OF SUPERVISORS Board Agenda Memo

MEETING DATE: December 5, 2023

TO: Board of Supervisors

FROM: **Phebe Bell**

SUBJECT: Resolution of the Board of Supervisors of the County of Nevada deferring implementation of the changes made to Welfare and Institutions Code section 5008 by Senate Bill 43 (2023-2024 reg session).

RECOMMENDATION: Approve the attached Resolution.

FUNDING: If the implementation of this legislation is delayed, there are no new costs to the Behavioral Health budget at this time. Ultimately, the costs of identifying, assessing and treating individuals who will now qualify for involuntary care under this expansion of the law will be paid for with existing realignment and Medi-Cal revenues. Additional impacts of the law may also be felt by other county departments including the Public Guardian, County Counsel and the Public Defender. There are no new resources with this expanded mandate.

BACKGROUND:

The California Legislature recently passed Senate Bill (SB) 43 which makes significant changes to the state's involuntary detention and conservatorship laws under the Lanterman-Petris-Short (LPS) Act. Specific changes enacted by the law include:

- Expanding the state's "gravely disabled" criteria to allow for the involuntary detention and conservatorship of individuals on the basis of a standalone "severe" substance use disorder or co-occurring mental health disorder and severe Substance Use Disorder (SUD);
- Expanding the definition of grave disability to include individuals who are unable to provide for their basic personal need for personal safety or necessary medical care;
- Defining "necessary medical care" to mean care that a licensed health care practitioner determines to be necessary to prevent serious deterioration of an existing medical condition which is likely to result in serious bodily injury if left untreated;

- Modifying hearsay evidentiary standards for conservatorship hearings in order to expand the array of testimony that can be submitted into conservatorship proceedings without requiring in-person cross examination; and,
- Requiring counties to consider less restrictive alternatives such as assisted outpatient treatment (AOT) and CARE Court in conducting conservatorship investigations.

Counties will need to develop an extensive array of new policies, procedures, workforce, and treatment capacity in order to implement SB 43. Because SB 43 has not come with dedicated state funding to support these expanded obligations, counties will need additional lead-time to arrange the staffing and resources necessary to support implementation. Some of the anticipated needs to be addressed include the need to develop criteria for a “severe SUD” grave disability assessment, as no such assessment currently exists. Counties will also need to develop criteria and policies, as well as protocols for designating individuals to perform severe SUD grave disability assessments. Additionally, counties will need to develop criteria for determining whether someone is unable to survive safely in the community due to the severity of their physical health needs and their ability to make decisions about that need. Perhaps most importantly, counties will need to develop treatment options for involuntary treatment for people with a substance use disorder, as well as expanded options for people with complex medical needs and co-occurring mental health or substance use disorder conditions.

Because SB 43 is a change to LPS law, it is not considered a new state mandate and therefore no new funding is associated with this expansion. Impacts of the law will be felt by numerous county departments including Behavioral Health, but also the Public Guardian’s Office, the Public Defender and County Counsel. Additionally, local critical stakeholders such as the hospitals are likely to feel the impact of people with extended wait times in Emergency Departments if requisite treatment pathways are not built out before implementation. Similarly the court system needs time to consider criteria and grounds for conservatorship standards for people with a primary substance use disorder or challenges with medical decision making.

Due to the complexity of implementing SB 43, the legislature allowed counties the option of delaying implementation for up to two years. The majority of counties are choosing that option. Given the significant work to be completed in order to effectively implement this law, as well as due to the financial impacts of expanding services in these ways, the Behavioral Health Department is asking the Board to adopt a resolution to delay implementation of SB 43 in Nevada County for two years until January 1, 2026.

Item Initiated and Approved by: Phebe Bell, MSW, Director of Behavioral Health