

December 19, 2023

MOTION BY SUPERVISOR LINDSEY P. HORVATH

Delaying Implementation of Senate Bill 43 (Eggman) in Los Angeles County

In the decades since the Lanterman-Petris-Short (LPS) Act was enacted in 1967 with the aim of ending “the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism,” the State and counties have faced numerous challenges as they attempt to meet the needs of our most severely mentally ill neighbors and loved ones. The original LPS Act was introduced at a time when the State’s mental health hospitals were overcrowded and were found to be incapable of delivering high-quality treatment services. The LPS Act was intended to prevent people from being compelled into involuntary treatment inappropriately while the State built out a more robust system of community mental health centers. Our State legislators planned on developing community-based mental health resources that would provide preventive and recovery services to the State’s residents, thereby reducing the number of people whose mental illness was so severe that they needed involuntary treatment. However, as we now know, the robust system of community-based resources was never fully developed. And as research has shown, the State’s decision to empty out the psychiatric hospitals without ensuring sufficient capacity existed in patients’ home communities to care for them had disastrous results.

Now, five decades after the LPS Act was first enacted, we find ourselves facing many of

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the same persistent challenges as the Act's authors did, as well as several new problems. Our mental health service system, while larger than it was in the 1960s, is still under-resourced and under-staffed. In order to provide appropriate behavioral health crisis care to our community, we rely on a wide variety of providers, including our County Departments of Mental Health and Public Health, law enforcement agencies, fire departments and ambulance service providers, public and private hospitals, and a growing mix of crisis stabilization units, sobering centers, and mental health urgent care centers. The County continues to build out our Alternative Crisis Response system to guarantee that our residents experiencing a behavioral health crisis receive the most appropriate response and assistance. The County also continues to work with our local courts and our Public Guardian, and our Public Defender to ensure that our residents who are placed into the conservatorship system maintain their personal rights to the greatest extent possible.

In the most recent legislative cycle, Senate Bill 43 (SB 43) by Senator Susan Eggman was signed by Governor Newsom earlier this year. Among other changes it makes to LPS law, SB 43 updates the definition of grave disability to include those who have a severe substance use disorder, those who are unable to provide for their personal safety, and those who are unable to provide for their necessary medical care.

However, implementing these changes to our existing LPS system, our mental health system, and our substance use treatment system is no small task. As the November 22, 2023, report from our Departments of Mental Health and Public Health clearly notes, properly preparing to implement SB 43 will require the development of new criteria for involuntary treatment; the

training and recertification of thousands of local providers and law enforcement agents on those new criteria; the development of new client flow maps that explain how clients will move through our various systems of care; partnering with the Courts to ensure proper development of court orders and conservatorship orders; working with our managed care plans to ensure that our bifurcated Medi-Cal systems are operating harmoniously; and creating sufficient capacity in our already over-stressed and under-resourced treatment facilities for involuntary treatment. All of this work will take time and careful coordination across our many internal and external partners.

SB 43 does allow counties the option to defer local implementation of the bill's significant changes until January 2026. This Board cannot afford to make the same mistakes that our State leaders did decades ago when they emptied out the State hospitals without having the community-based system of mental health care resources in place. Given the immense amount of work that the County is facing to prepare implementation of SB 43, we must ensure that we are ready to care for the expanded population of residents who will be placed on involuntary commitments before we begin making changes to our LPS system.

I, THEREFORE, MOVE that the Board of Supervisors adopt the attached resolution delaying local implementation of Senate Bill 43 (Eggman) until January 1, 2026.

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LPH: AA

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DEFERRING IMPLEMENTATION OF THE CHANGES MADE TO WELFARE AND INSTITUTIONS CODE SECTION 5008 BY SENATE BILL 43 (2023-2024 REG SESSION)

WHEREAS, the Lanterman-Petris-Short (LPS) Act (Welfare and Institutions Code section 5100, et seq.) provides for the evaluation and treatment of a person who is gravely disabled, which is defined to mean a condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter; and

WHEREAS, Senate Bill 43 (2023-2024 Reg. Session), Statutes 2023, Chapter 637 (SB 43), signed by the Governor on October 10, 2023, expands the definition of gravely disabled to include a person who, as a result of a mental health disorder, a severe substance use disorder (SUD), or a co-occurring mental health disorder and a severe substance use disorder, or as a result of impairment by chronic alcoholism, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care; and

WHEREAS, this expanded definition of gravely disabled becomes effective on January 1, 2024; and

WHEREAS, the responsibility for administering the LPS system falls largely with counties; and

WHEREAS, SB 43’s expansion of the definition of grave disability will require a significant effort in building and expanding the treatment, workforce, delivery networks, housing capacity and models for secured treatment settings and for involuntary treatment of SUD in order to successfully meet the conservatorship needs of the population; and

WHEREAS, SB 43’s expansion of LPS criteria to include individuals with a severe SUD would significantly expand the portion of the population potentially subject to detention and conservatorship under LPS from around 1% to around 10% of the population based on SUD prevalence estimates; and,

WHEREAS, SB 43 will require counties to develop criteria for a “severe SUD” grave disability assessment, as no such assessment currently exists as well as protocols for designating individuals to perform severe SUD grave disability assessments and to recruit and hire staff to perform severe SUD grave disability assessments; and

WHEREAS, SB 43 expands LPS criteria to necessitate an assessment of whether an individual is unable to survive safely in the community without involuntary detention,

and whether an individual is unable to provide for their necessary medical care, counties along with qualified licensed health care providers will need to develop policies and procedures for how these assessments will be made; and,

WHEREAS, In addition, hospitals will be without qualified designated individuals to perform the assessments needed to remove involuntary holds, when appropriate, or recommend conservatorship when appropriate and because there is currently no secured treatment capacity for individuals with severe SUD and limited capacity for individuals with co-occurring medical conditions, local hospital emergency departments will be impacted by additional individuals who are boarding in the absence of this new treatment capacity; and,

WHEREAS, SB 43 will expand the demand for county Public Guardians, Patient Rights Advocates, County Counsel, and county behavioral health staff and treatment providers; and,

WHEREAS, SB 43 will require the build out of new and novel treatment capacity such as secured SUD treatment facilities which currently do not exist in California; and,

WHEREAS, the breadth of effort requires more time than SB 43's effective date allows; and

WHEREAS, in recognition of this, Welfare and Institutions Code section 5008, subdivision (h)(4), as enacted by SB 43, provides that a county, by adoption of a resolution of its governing body, may elect to defer implementation of the changes made to this section by SB 43 until January 1, 2026, thereby postponing implementation of the new definition of grave disability.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors for County of Los Angeles as follows:

1. Pursuant to Welfare and Institutions Code section 5008, subdivision (h)(4), as enacted by SB 43, the County of Los Angeles hereby elects to defer implementation of the changes made by that bill to Welfare and Institutions Code section 5008 until January 1, 2026.
2. This Resolution shall go into effect on January 1, 2024.

On a motion by Supervisor [Horvath](#), seconded by Supervisor [Mitchell](#), the foregoing Resolution was passed and adopted by the Board of Supervisors of the County of Los Angeles State of California, this 19th day of December, 2023 by the following vote:



CELIA ZAVALA
Executive Officer of the
Board of Supervisors
County of Los Angeles

By: *Maxine Olvera*
Deputy

APPROVED AS TO FORM:

DAWYN R. HARRISON
COUNTY COUNSEL

By *William Birnie*

William Birnie
Senior Deputy County Counsel