

STAFF REPORT

BOARD MEETING DATE: December 19, 2023

CATEGORY: Consent Calendar 6

SUBJECT: Adopt a resolution which defers implementation of the changes to Welfare and Institutions Code Section 5008 by Senate Bill 43.

DEPARTMENT: Health and Human Services Agency-Behavioral Health and Social Services

SUPERVISORIAL DISTRICT #: All

DEPARTMENT CONTACT: Miguel Rodriguez, Director of Mental Health, Behavioral Health & Social Services Branch, (530) 225-5900

STAFF REPORT APPROVED BY: Laura Burch, HHSA Director

<u>Vote Required?</u> Simple Majority Vote	<u>General Fund Impact?</u> No General Fund Impact
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RECOMMENDATION

Adopt a resolution, effective January 1, 2024, which defers implementation of the changes to Welfare and Institutions Code Section 5008 by Senate Bill 43, expanding the definition of gravely disabled.

DISCUSSION

Senate Bill (SB) 43 makes several significant changes to the state’s involuntary detention and conservatorship laws under the Lanterman-Petris-Short Act by (1) 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 (SUD) or co-occurring mental health disorder and severe SUD; (2) 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; (3) 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; (4) 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, (5) Requiring counties consider less restrictive alternatives such as assisted outpatient treatment and Community Assistance, Recovery and Empowerment (CARE) Court in conducting conservatorship investigations.

SB 43 also expands reporting requirements to align with the new criteria and allows counties to delay implementation until January 1, 2026, through adoption of a county board resolution.

Counties will need to develop an extensive array of new policies, procedures, workforce, and treatment capacity in order to implement SB 43, which is detailed, in part, below. County Behavioral Health Directors Association is conducting further analysis to understand the full scope of state and local secondary guidance and other changes that will be required to support full implementation. 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.

Recent state investments in capacity under the Behavioral Health Continuum Infrastructure Program (BHCIP) were not designed to address this policy change, and that capacity will take years to build out. County behavioral health was not the primary recipient of BHCIP funding. They represent 1/3 of grantees in competitive rounds and received less than half of the BHCIP funding. Counties will see very little of the \$4.4 billion in Children and Youth Behavioral Health Initiative investments which will primarily benefit IT vendors, Congressional Budget Office, education partners, and Medi-Cal managed plans..

Proposition 1, if passed by the voters in March 2024, could address some of these issues such as the fact that the state has been clear

that the new step-down capacity could be locked, although preference is given for the least restrictive and least costly settings for treatment and rehabilitation. However, concern remains that two years is an inadequate amount of time to build out necessary residential and inpatient SUD treatment capacity to enact this policy change. Proposition 1 also allows for Mental Health Services Act to be used for SUD treatment, but this would draw from funding already dedicated to mental health treatment services instead of augmenting the existing dollars currently going to county mental health services.

ALTERNATIVES

The Board could choose not to approve the recommendation or provide alternate direction to staff. If the Board decides not to adopt the resolution, Shasta County would remain out of compliance with Senate Bill 43 due to funding deficits.

OTHER AGENCY INVOLVEMENT

County Counsel has approved the agreement as to form. The recommendation has been reviewed by the County Administrative Office.

FISCAL IMPACT

There is no fiscal impact to approve the recommendation which delays the implementation of Senate Bill 43. If Senate Bill 43 was not delayed, the County would be required to implement effective January 1, 2024. Since State funding is not yet fully developed, the County would be required to use the general fund to support implementation, which would have significant impact on County dollars.

ATTACHMENTS:

1: Resolution