

Senate Bill No. 43

CHAPTER 637

An act to amend Section 1799.111 of the Health and Safety Code, and to amend Sections 5008, 5350, 5354, and 5402 of, and to add Section 5122 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 43, Eggman. Behavioral health.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of a person who is a danger to themselves or others or who is gravely disabled. Existing law, for purposes of involuntary commitment, defines "gravely disabled" as either a condition in which a person, as a result of a mental health disorder, is unable to provide for their basic personal needs for food, clothing, or shelter or has been found mentally incompetent, as specified.

This bill expands the definition of "gravely disabled" to also include a condition in which a person, as a result of a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is, in addition to the basic personal needs described above, unable to provide for their personal safety or necessary medical care, as defined. The bill would also expand the definition of "gravely disabled," as it applies to specified sections, to include, in addition to the basic needs described above, the inability for a person to provide for their personal safety or necessary medical care as a result of chronic alcoholism. The bill would authorize counties to defer implementation of these provisions to January 1, 2026, as specified. The bill would make conforming changes. To the extent that this change increases the level of service required of county mental health departments, the bill would impose a state-mandated local program.

Existing law also authorizes the appointment of a conservator, in the County of Los Angeles, the County of San Diego, or the City and County of San Francisco, for a person who is incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder. Existing law establishes the hearsay rule, under which evidence of a statement is generally inadmissible if it was made other than by a witness while testifying at a hearing and is offered to prove the truth of the matter stated. Existing law sets forth exceptions to the hearsay rule to permit the admission of specified kinds of evidence.

Under this bill, for purposes of an opinion offered by an expert witness in any proceeding relating to the appointment or reappointment of a conservator pursuant to the above-described provisions, the statements of

specified health practitioners or a licensed clinical social worker included in the medical record would not be made inadmissible by the hearsay rule under specified conditions. The bill would authorize the court to grant a reasonable continuance if an expert witness in a proceeding relied on the medical record and the medical record has not been provided to the parties or their counsel.

Existing law requires the State Department of Health Care Services to collect data quarterly and publish, on or before May 1 of each year, a specified report that includes, among other things, the number of persons for whom temporary conservatorship are established in each county and an analysis and evaluation of the efficacy of mental health assessments, detentions, treatments, and supportive services provided, as specified.

This bill would, beginning with the report due May 1, 2024, require the report to also include the number of persons admitted or detained, as specified, for conditions that include, among others, grave disability due to a mental health disorder, severe substance use disorder, or both a mental health disorder and a severe substance use disorder.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 1799.111 of the Health and Safety Code is amended to read:

1799.111. (a) Subject to subdivision (b), a licensed general acute care hospital, as defined in subdivision (a) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, or any physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital is not civilly or criminally liable for detaining a person if all of the following conditions exist during the detention:

(1) The person cannot be safely released from the hospital because, in the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges, clinical privileges, or professional responsibilities provided in Section 1316.5, the person, as a result of a mental health disorder, presents a danger to themselves, or others, or is gravely disabled. For purposes of this paragraph, "gravely disabled" has the same

definition as in paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code.

(2) The hospital staff, treating physician and surgeon, or appropriate licensed mental health professional, have made, and documented, repeated unsuccessful efforts to find appropriate mental health treatment for the person.

(A) Telephone calls or other contacts required pursuant to this paragraph shall commence at the earliest possible time when the treating physician and surgeon has determined the time at which the person will be medically stable for transfer.

(B) The contacts required pursuant to this paragraph shall not begin after the time when the person becomes medically stable for transfer.

(3) The person is not detained beyond 24 hours.

(4) There is probable cause for the detention.

(b) If the person is detained pursuant to subdivision (a) beyond eight hours, but less than 24 hours, both of the following additional conditions shall be met:

(1) A discharge or transfer for appropriate evaluation or treatment for the person has been delayed because of the need for continuous and ongoing care, observation, or treatment that the hospital is providing.

(2) In the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, the person, as a result of a mental health disorder, is still a danger to themselves, or others, or is gravely disabled, as defined in paragraph (1) of subdivision (a).

(c) In addition to the immunities set forth in subdivision (a), a licensed general acute care hospital, as defined in subdivision (a) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital, as defined by subdivision (b) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, or a physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital shall not be civilly or criminally liable for the actions of a person detained up to 24 hours in those hospitals who is subject to detention pursuant to subdivision (a) after that person's release from the detention at the hospital, if all of the following conditions exist during the detention:

(1) The person has not been admitted to a licensed general acute care hospital or a licensed acute psychiatric hospital for evaluation and treatment pursuant to Section 5150 of the Welfare and Institutions Code.

(2) The release from the licensed general acute care hospital or the licensed acute psychiatric hospital is authorized by a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, who determines, based on a face-to-face examination of the person detained, that the person does not present a danger to themselves or others and is not gravely disabled, as

defined in paragraph (1) of subdivision (a). In order for this paragraph to apply to a clinical psychologist, the clinical psychologist shall have a collaborative treatment relationship with the physician and surgeon. The clinical psychologist may authorize the release of the person from the detention, but only after the clinical psychologist has consulted with the physician and surgeon. In the event of a clinical or professional disagreement regarding the release of a person subject to the detention, the detention shall be maintained unless the hospital's medical director overrules the decision of the physician and surgeon opposing the release. Both the physician and surgeon and the clinical psychologist shall enter their findings, concerns, or objections in the person's medical record.

(d) Notwithstanding any other law, an examination, assessment, or evaluation that provides the basis for a determination or opinion of a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5 that is specified in this section may be conducted using telehealth.

(e) This section does not affect the responsibility of a general acute care hospital or an acute psychiatric hospital to comply with all state laws and regulations pertaining to the use of seclusion and restraint and psychiatric medications for psychiatric patients. Persons detained under this section shall retain their legal rights regarding consent for medical treatment.

(f) A person detained under this section shall be credited for the time detained, up to 24 hours, if the person is placed on a subsequent 72-hour hold pursuant to Section 5150 of the Welfare and Institutions Code.

(g) The amendments to this section made by Chapter 308 of the Statutes of 2007 do not limit any existing duties for psychotherapists contained in Section 43.92 of the Civil Code.

(h) This section does not expand the scope of licensure of clinical psychologists.

SEC. 2. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing face-to-face, which includes telehealth, evaluation services or may be part-time employees or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a superior court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter

7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. This part does not prohibit an intensive treatment facility from also providing 72-hour evaluation and treatment.

(d) “Referral” is referral of persons by each agency or facility providing assessment, evaluation, crisis intervention, or treatment services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person’s behalf, discussing the person’s problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services that prevent initial recourse to hospital treatment or aftercare services that support adjustment to community living following hospital treatment. These services may be provided through county or city mental health departments, state hospitals under the jurisdiction of the State Department of State Hospitals, regional centers under contract with the State Department of Developmental Services, or other public or private entities.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) “Crisis intervention” consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations that present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. The interview or interviews may include family members, significant support persons, providers, or other entities or individuals, as appropriate and as authorized by law. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) “Prepetition screening” is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of a mental health disorder, to be a danger to others, or to themselves, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) “Conservatorship investigation” means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), “gravely disabled” means any of the following, as applicable:

(A) A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

(B) A condition in which a person has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The complaint, indictment, or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) There has been a finding of probable cause on a complaint pursuant to paragraph (2) of subdivision (a) of Section 1368.1 of the Penal Code, a preliminary examination pursuant to Section 859b of the Penal Code, or a grand jury indictment, and the complaint, indictment, or information has not been dismissed.

(iii) As a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against them and to assist counsel in the conduct of their defense in a rational manner.

(iv) The person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), “gravely disabled” includes a condition in which a person, 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.

(3) The term “gravely disabled” does not include persons with intellectual disabilities by reason of that disability alone.

(4) A county, by adoption of a resolution of its governing body, may elect to defer implementation of the changes made to this section by Senate Bill 43 of the 2022–2023 Regular Legislative Session until January 1, 2026.

(i) “Peace officer” means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which the officer has a legally mandated responsibility.

(j) “Postcertification treatment” means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) “Court,” unless otherwise specified, means a court of record.

(l) “Antipsychotic medication” means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) “Emergency” means a situation in which action to impose treatment over the person’s objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

(n) “Designated facility” or “facility designated by the county for evaluation and treatment” means a facility that is licensed or certified as a mental health treatment facility or a hospital, as defined in subdivision (a) or (b) of Section 1250 of the Health and Safety Code, by the State Department of Public Health, and may include, but is not limited to, a licensed psychiatric hospital, a licensed psychiatric health facility, and a certified crisis stabilization unit.

(o) “Severe substance use disorder” means a diagnosed substance-related disorder that meets the diagnostic criteria of “severe” as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders.

(p) “Personal safety” means the ability of one to survive safely in the community without involuntary detention or treatment pursuant to this part.

(q) “Necessary medical care” means care that a licensed health care practitioner, while operating within the scope of their practice, determines to be necessary to prevent serious deterioration of an existing physical medical condition which, if left untreated, is likely to result in serious bodily injury as defined in Section 15610.67.

SEC. 3. Section 5122 is added to the Welfare and Institutions Code, to read:

5122. (a) For purposes of an opinion offered by an expert witness in a proceeding relating to the appointment or reappointment of a conservator pursuant to Chapter 3 (commencing with Section 5350) or Chapter 5 (commencing with Section 5450), the statement of a health practitioner, as defined in subdivision (d), included in the medical record is not made inadmissible by the hearsay rule when the statement pertains to the person’s symptoms or behavior stemming from a mental health disorder or severe substance use disorder that the expert relies upon to explain the basis for their opinion, if the statement is based on the observation of the declarant, and the court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability.

(b) This section does not affect the ability of a party to call as a witness the declarant of any statement contained in the medical record, whether or not the declarant’s statement was relied on by the expert witness.

(c) The court may grant a reasonable continuance if an expert witness in a proceeding relied on the medical record and the medical record has not been provided to the parties or their counsel.

(d) (1) “Health practitioner” means a physician and surgeon, psychiatrist, psychologist, resident, intern, registered nurse, licensed clinical social worker or associate clinical social worker, licensed marriage and family therapist or associate marriage and family therapist, licensed professional clinical counselor or associate professional clinical counselor, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, and a psychological associate registered pursuant to Section 2913 of the Business and Professions Code.

(2) “Medical record” means any record, in any form or medium, maintained or lawfully obtained by, or in the custody or control of, the office of the public conservator or public guardian that is prepared by a health practitioner and relates to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient who is subject to a conservatorship pursuant to Chapter 3 (commencing with Section 5350). Medical record includes records of care in any health-related setting used by health care professionals while providing patient care services, for reviewing patient data or documenting observations, actions, or instructions, including records that are considered part of the active, overflow, and discharge chart. Medical record also includes, but is not limited to, all alcohol and substance use and treatment records.

(e) Nothing in this section affects the application of Section 1201 of the Evidence Code.

SEC. 4. Section 5350 of the Welfare and Institutions Code is amended to read:

5350. A conservator of the person, of the estate, or of the person and the estate may be appointed for a person who is gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism.

The procedure for establishing, administering, and terminating a conservatorship under this chapter shall be the same as that provided in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

(a) A conservator may be appointed for a gravely disabled minor.

(b) (1) Appointment of a conservator under this part, including the appointment of a conservator for a person who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, shall be subject to the list of priorities in Section 1812 of the Probate Code unless the officer providing conservatorship investigation recommends otherwise to the superior court.

(2) In appointing a conservator for a person who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the court shall consider the purposes of protection of the public and the treatment of the conservatee. Notwithstanding any other provision of

this section, the court shall not appoint the proposed conservator if the court determines that appointment of the proposed conservator will not result in adequate protection of the public.

(c) A conservatorship of the estate pursuant to this chapter shall not be established if a conservatorship or guardianship of the estate exists under the Probate Code. When a gravely disabled person already has a guardian or conservator of the person appointed under the Probate Code, the proceedings under this chapter shall not terminate the prior proceedings but shall be concurrent with and superior thereto. The superior court may appoint the existing guardian or conservator of the person or another person as conservator of the person under this chapter.

(d) (1) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue of whether the person is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, the demand shall constitute a waiver of the hearing.

(2) Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee. Failure to commence the trial within that period of time is grounds for dismissal of the conservatorship proceedings.

(3) This right shall also apply in subsequent proceedings to reestablish conservatorship.

(e) (1) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the court to publicly find, that no one is willing or able to assist a person with a mental health disorder in providing for the person's basic needs for food, clothing, or shelter.

(4) This subdivision does not apply to a person who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008.

(f) Conservatorship investigation shall be conducted pursuant to this part and shall not be subject to Section 1826 or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code.

(g) Notice of proceedings under this chapter shall be given to a guardian or conservator of the person or estate of the proposed conservatee appointed under the Probate Code.

(h) As otherwise provided in this chapter.

SEC. 5. Section 5354 of the Welfare and Institutions Code is amended to read:

5354. (a) The officer providing conservatorship investigation shall investigate all available alternatives to conservatorship, including, but not limited to, assisted outpatient treatment pursuant to Section 5346 and the Community Assistance, Recovery, and Empowerment (CARE) Act program pursuant to Section 5978, as applicable, and shall recommend conservatorship to the court only if no suitable alternatives are available. This officer shall render to the court a written report of investigation prior to the hearing. The report to the court shall be comprehensive and shall contain all relevant aspects of the person's medical, psychological, financial, family, vocational, and social condition, and information obtained from the person's family members, close friends, social worker, or principal therapist. The report shall also contain all available information concerning the person's real and personal property. The facilities providing intensive treatment or comprehensive evaluation shall disclose any records or information that may facilitate the investigation. If the officer providing conservatorship investigation recommends either for or against conservatorship, the officer shall set forth all alternatives available, including conservatorship, assisted outpatient treatment pursuant to Section 5346 and the CARE Act program pursuant to Section 5978, as applicable, and all other less restrictive alternatives. A copy of the report shall be transmitted to the individual who originally recommended conservatorship, to the person or agency, if any, recommended to serve as conservator, and to the person recommended for conservatorship. The court may receive the report in evidence and may read and consider the contents thereof in rendering its judgment.

(b) Notwithstanding Section 5328, when a court with jurisdiction over a person in a criminal case orders an evaluation of the person's mental condition pursuant to Section 5200, and that evaluation leads to a conservatorship investigation, the officer providing the conservatorship investigation shall serve a copy of the report required under subdivision (a) upon the defendant or the defendant's counsel. Upon the prior written request of the defendant or the defendant's counsel, the officer providing the conservatorship investigation shall also submit a copy of the report to the court hearing the criminal case, the district attorney, and the county probation department. The conservatorship investigation report and the information contained in that report, shall be kept confidential and shall not be further disclosed to anyone without the prior written consent of the defendant. After disposition of the criminal case, the court shall place all copies of the report in a sealed file, except as follows:

(1) The defendant and the defendant's counsel may retain their copy.

(2) If the defendant is placed on probation status, the county probation department may retain a copy of the report for the purpose of supervision of the defendant until the probation is terminated, at which time the probation

department shall return its copy of the report to the court for placement into the sealed file.

SEC. 6. Section 5402 of the Welfare and Institutions Code is amended to read:

5402. (a) The State Department of Health Care Services shall collect data quarterly and publish, on or before May 1 of each year, a report including quantitative, deidentified information concerning the operation of this division. The report shall include an evaluation of the effectiveness of achieving the legislative intent of this part pursuant to Section 5001. Based on information that is available from each county, the report shall include all of the following information:

(1) The number of persons in designated and approved facilities admitted or detained for 72-hour evaluation and treatment, admitted for 14-day and 30-day periods of intensive treatment, and admitted for 180-day postcertification intensive treatment in each county.

(2) The number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code in each county.

(3) The number of persons for whom temporary conservatorships are established in each county.

(4) The number of persons for whom conservatorships are established in each county.

(5) The number of persons admitted or detained either once, between two and five times, between six and eight times, and greater than eight times for each type of detention, including 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment.

(6) The clinical outcomes for individuals identified in paragraphs (1) to (4), inclusive.

(7) The services provided or offered to individuals identified in paragraphs (1) to (4), inclusive. Data pertaining to services provided or offered to individuals placed on each type of hold shall include, but not be limited to, assessment, evaluation, medication treatment, crisis intervention, and psychiatric and psychological treatment services. Data pertaining to services shall specify the payer information or funding used to pay for services.

(8) The waiting periods for individuals prior to receiving an evaluation in a designated and approved facility pursuant to Section 5150 or 5151 and waiting periods for individuals prior to receiving treatment services in a designated facility, including the reasons for waiting periods. The waiting period shall be calculated from the date and time when the hold began and end on the date and time when the individual received an evaluation or received evaluation and treatment services in a designated facility.

(9) If the source of admission is an emergency department, the date and time of service and release from emergency care.

(10) Demographic data of those receiving care, including age, sex, gender identity, race, ethnicity, primary language, sexual orientation, veteran status, and housing status, to the extent those data are available.

(11) The number of all county-contracted beds.

(12) The number and outcomes of all of the following:

- (A) The certification review hearings held pursuant to Section 5256.
- (B) The petitions for writs of habeas corpus filed pursuant to Section 5275.
- (C) The judicial review hearings held pursuant to Section 5276.
- (D) The petitions for capacity hearings filed pursuant to Section 5332.
- (E) The capacity hearings held pursuant to Section 5334 in each superior court.

(13) Analysis and evaluation of the efficacy of mental health assessments, detentions, treatments, and supportive services provided both under this part and subsequent to release.

(14) Recommendations for improving mental health assessments, detentions, treatments, and supportive services provided under this part and subsequent to release.

(15) An assessment of the disproportionate use of detentions and conservatorships on various groups, including an assessment of use by the race, ethnicity, gender identity, age group, veteran status, housing status, and Medi-Cal enrollment status of detained and conserved persons. This assessment shall evaluate disproportionate use at the county, regional, and state levels.

(16) An explanation for the absence of any data required pursuant to this section that are not included in the report.

(17) Beginning with the report due May 1, 2025, the report shall also include the progress that has been made on implementing recommendations from prior reports issued under this subdivision.

(18) Beginning with the report due May 1, 2024, the number of persons admitted or detained, including 72-hour evaluations and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment, for each of the following conditions:

- (A) Danger to self.
- (B) Danger to others.
- (C) Grave disability due to a mental health disorder.
- (D) Grave disability due to a severe substance use disorder.
- (E) Grave disability due to both a mental health disorder and a severe substance use disorder.

(b) (1) (A) Each county behavioral health director shall provide accurate and complete data to the department in a form and manner, and in accordance with timelines, prescribed by the department.

(B) County behavioral health directors shall provide the data specified in paragraphs (1) to (11), inclusive, of subdivision (a), and any other information, records, and reports that the department deems necessary for the purposes of this section.

(C) Data shall be submitted on a quarterly basis, or more frequently, as required by the department. The department shall not have access to patient name identifiers.

(2) (A) Each designated and approved facility that admits, detains, or provides services to persons pursuant to this part and Part 1.5 (commencing

with Section 5585) and each other entity involved in implementing Section 5150 shall collect and provide accurate and complete data to the county behavioral health director in the county in which they operate to meet the reporting obligations specified in paragraphs (1) to (11), inclusive, of subdivision (a) and any other information, records, and reports that the county or the department deems necessary for the purposes of this section.

(B) A county may establish policies and procedures for this paragraph to ensure compliance with the requirements of this section. These facilities and entities shall collect and report data to the county behavioral health director consistent with the county's policies and procedures, if established.

(C) Data shall be submitted to the county behavioral health director on a quarterly basis, or more frequently, as required by the county.

(3) A county behavioral health director shall provide the accurate and complete data it receives pursuant to paragraph (2) to the department pursuant to paragraph (1).

(4) All data submitted to the department by each county behavioral health director shall be transmitted in a secure manner in compliance with all applicable state and federal requirements, including, but not limited to, Section 164.312 of Title 45 of the Code of Federal Regulations.

(c) Information published pursuant to subdivision (a) shall not contain data that may lead to the identification of patients receiving services under this division and shall contain statistical data only. Data published by the department shall be deidentified in compliance with subdivision (b) of Section 164.514 of Title 45 of the Code of Federal Regulations.

(d) The Judicial Council shall provide the department, by October 1 of each year, with data from each superior court to complete the report described in this section, including the number and outcomes of certification review hearings held pursuant to Section 5256, petitions for writs of habeas corpus filed pursuant to Section 5275, judicial review hearings held pursuant to Section 5276, petitions for capacity hearings filed pursuant to Section 5332, and capacity hearings held pursuant to Section 5334 in each superior court. The department shall not have access to patient name identifiers.

(e) The department shall make the report publicly available on the department's internet website.

(f) (1) The department may impose a plan of correction or assess civil money penalties, pursuant to paragraph (3), or both, against a designated and approved facility that fails to submit data on a timely basis or as otherwise required by this section.

(2) The department may impose a plan of correction or assess civil money penalties, pursuant to paragraph (3), or both, against a county that fails to submit data on a timely basis or as otherwise required by this section.

(3) The department may assess civil money penalties against a designated and approved facility or county in the amount of fifty dollars (\$50) per day from the date specified in the notice to impose civil money penalties from the department.

(4) (A) A designated and approved facility or county may submit an informal written appeal of a civil money penalty to the department within

30 calendar days of the date of issuance of a notice to impose civil money penalties.

(B) The designated and approved facility or county shall include any supporting documentation and explain any mitigating circumstances.

(C) The department shall make a determination on the appeal within 60 calendar days of receipt of the informal written appeal.

(5) (A) A designated and approved facility or county may request a formal hearing within 30 calendar days following the issuance of the department's final determination on the appeal pursuant to paragraph (4).

(B) All hearings to review the imposition of civil money penalties shall be held pursuant to the procedures set forth in Section 100171 of the Health and Safety Code.

(C) Civil money penalties imposed upon a designated and approved facility or county shall continue to accrue until the effective date of the final decision of the department.

(g) (1) The Lanterman-Petris-Short Act Data and Reporting Oversight Fund is hereby created in the State Treasury.

(2) The Lanterman-Petris-Short Act Data and Reporting Oversight Fund shall be administered by the State Department of Health Care Services.

(3) Civil money penalties assessed and collected pursuant to subdivision (f) shall be deposited into this fund.

(4) (A) Notwithstanding Section 13340 of the Government Code, moneys deposited in the Lanterman-Petris-Short Act Data and Reporting Oversight Fund shall be continuously appropriated, without regard to fiscal year, to the State Department of Health Care Services for the purposes of funding its oversight activities and administrative costs associated with implementing this section.

(B) Notwithstanding any other law, the Controller may use the moneys in the Lanterman-Petris-Short Act Data and Reporting Oversight Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of information notices, provider bulletins, or other similar instructions, without taking any further regulatory action.

(i) The department may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis for purposes of administering or implementing the requirements of this section. Contracts entered into or amended pursuant to this section shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and

school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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