

AMENDED IN SENATE MARCH 25, 2021

SENATE BILL

No. 782

Introduced by Senator Glazer

February 19, 2021

An act to add Section 5346.5 to the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 782, as amended, Glazer. Assisted outpatient treatment programs. The Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, commencing January 1, 2022, requires each county to offer specified mental health programs, unless a county or group of counties opts out by a resolution passed by the governing body stating the reasons for opting out and any facts or circumstances relied on in making that decision. Existing law authorizes participating counties to pay for the services provided from moneys distributed to the counties from various continuously appropriated funds, including the Mental Health Services Fund, when included in a county plan, as specified. Existing law authorizes a court to order a person who is the subject of a petition filed pursuant to those provisions to obtain assisted outpatient treatment if the court finds, by clear and convincing evidence, that the facts stated in the petition are true and establish that specified criteria are met, including that the person has a history of lack of compliance with treatment for their mental illness, and that there has been a clinical determination that the person is unlikely to survive safely in the community without supervision. Existing law authorizes the petition to be filed by the county behavioral health director, or the director's designee, in the superior court in the county in which the

person who is the subject of the petition is present or reasonably believed to be present, in accordance with prescribed procedures.

This bill would additionally authorize the filing of a petition to obtain assisted outpatient treatment under the existing petition procedures, for a conservatee or former conservatee, as specified, who would benefit from assisted outpatient treatment to reduce the risk of deteriorating mental health while living independently.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 5346.5 is added to the Welfare and
 2 Institutions Code, to read:
 3 5346.5. (a) ~~(1)~~—In a county or group of counties where services
 4 are available as provided in Section 5348, *and in accordance with*
 5 *the requirements of Section 5346*, a court may order a person who
 6 is the subject of a petition filed pursuant to this section to obtain
 7 assisted outpatient treatment if the court finds, by clear and
 8 convincing evidence, that the facts stated in the verified petition
 9 filed in accordance with this section are true and establish that at
 10 least one of the criteria set forth in ~~paragraph (2) subdivision (b)~~
 11 are satisfied.
 12 ~~(2)~~
 13 (b) This section applies to a person who is either of the
 14 following:
 15 (A)
 16 (1) A conservatee *under this part* who is the subject of a pending
 17 petition to terminate a conservatorship who, if the petition is
 18 granted, would benefit from assisted outpatient treatment to reduce
 19 the risk of deteriorating mental health while living independently.
 20 (B)
 21 (2) A former conservatee *under this part* who was the subject
 22 of a petition to terminate conservatorship that was granted within
 23 the preceding 60 days, who would benefit from assisted outpatient
 24 treatment to reduce the risk of deteriorating mental health while
 25 continuing to live independently.
 26 ~~(b) (1) A petition for an order authorizing assisted outpatient~~
 27 ~~treatment may be filed by the county behavioral health director,~~
 28 ~~or the director's designee, in the superior court in the county in~~

1 which the person who is the subject of the petition is present or
2 reasonably believed to be present.

3 (2) A request may be made only by any of the following persons
4 to the county mental health department for the filing of a petition
5 to obtain an order authorizing assisted outpatient treatment:

6 (A) A person 18 years of age or older with whom the person
7 who is the subject of the petition resides.

8 (B) A person who is the parent, spouse, or sibling or child 18
9 years of age or older of the person who is the subject of the petition.

10 (C) The director of a public or private agency, treatment facility,
11 charitable organization, or licensed residential care facility
12 providing mental health services to the person who is the subject
13 of the petition in whose institution the subject of the petition
14 resides.

15 (D) The director of a hospital in which the person who is the
16 subject of the petition is hospitalized.

17 (E) A licensed mental health treatment provider who is either
18 supervising the treatment of, or treating for a mental illness, the
19 person who is the subject of the petition.

20 (F) A peace officer, parole officer, or probation officer assigned
21 to supervise the person who is the subject of the petition.

22 (G) A judge of a superior court before whom the person who
23 is the subject of the petition appears.

24 (3) Upon receiving a request pursuant to paragraph (2), the
25 county behavioral health director shall conduct an investigation
26 into the appropriateness of filing of the petition. The director shall
27 file the petition only if the director determines that there is a
28 reasonable likelihood that all the necessary elements to sustain the
29 petition can be proven in a court of law by clear and convincing
30 evidence.

31 (4) The petition shall state all of the following:

32 (A) Each of the criteria for assisted outpatient treatment as set
33 forth in paragraph (2) of subdivision (a):

34 (B) Facts that support the petitioner's belief that the person who
35 is the subject of the petition meets each criterion, provided that
36 the hearing on the petition shall be limited to the stated facts in
37 the verified petition, and the petition contains all the grounds on
38 which the petition is based, in order to ensure adequate notice to
39 the person who is the subject of the petition and that person's
40 counsel.

1 ~~(C) That the person who is the subject of the petition is present,~~
2 ~~or is reasonably believed to be present, within the county where~~
3 ~~the petition is filed.~~

4 ~~(D) That the person who is the subject of the petition has the~~
5 ~~right to be represented by counsel in all stages of the proceeding~~
6 ~~under the petition, in accordance with subdivision (c).~~

7 ~~(5) The petition shall be accompanied by an affidavit of a~~
8 ~~licensed mental health treatment provider designated by the local~~
9 ~~mental health director who shall state, if applicable, either of the~~
10 ~~following:~~

11 ~~(A) That the licensed mental health treatment provider has~~
12 ~~personally examined the person who is the subject of the petition~~
13 ~~no more than 10 days prior to the submission of the petition, the~~
14 ~~facts and reasons why the person who is the subject of the petition~~
15 ~~meets the criteria in subdivision (a), that the licensed mental health~~
16 ~~treatment provider recommends assisted outpatient treatment for~~
17 ~~the person who is the subject of the petition, and that the licensed~~
18 ~~mental health treatment provider is willing and able to testify at~~
19 ~~the hearing on the petition.~~

20 ~~(B) That, no more than 10 days prior to the filing of the petition,~~
21 ~~the licensed mental health treatment provider, or the provider's~~
22 ~~designee, has made appropriate attempts to elicit the cooperation~~
23 ~~of the person who is the subject of the petition, but has not been~~
24 ~~successful in persuading that person to submit to an examination,~~
25 ~~that the licensed mental health treatment provider has reason to~~
26 ~~believe that the person who is the subject of the petition meets the~~
27 ~~criteria for assisted outpatient treatment, and that the licensed~~
28 ~~mental health treatment provider is willing and able to examine~~
29 ~~the person who is the subject of the petition and testify at the~~
30 ~~hearing on the petition.~~

31 ~~(c) The person who is the subject of the petition shall have the~~
32 ~~right to be represented by counsel at all stages of a proceeding~~
33 ~~commenced under this section. If the person so elects, the court~~
34 ~~shall immediately appoint the public defender or other attorney to~~
35 ~~assist the person in all stages of the proceedings. The person shall~~
36 ~~pay the cost of the legal services if able to do so.~~

1 ~~(d) Unless expertly provided otherwise, a petition filed pursuant~~
2 ~~to this section shall be subject to the procedures and requirements~~
3 ~~set forth in subdivisions (e) to (j), inclusive, of Section 5346.~~

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