



Legislation Details (With Text)

File #: 23-1833 **Version:** 1

Type: Resolution **Status:** Agenda Ready

File created: 10/26/2023 **In control:** Board of Supervisors

On agenda: 12/5/2023 **Final action:**

Title: Director of Health and Human Services Agency (HHS) requests adoption of a Resolution to defer implementation of Senate Bill (SB) 43 to January 1, 2026, as allowed by law.

Sponsors: Board of Supervisors

Indexes:

Code sections:

Attachments: 1. Resolution

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

TO: Board of Supervisors

FROM: Jennifer Yasumoto, Director of Health and Human Services Agency

REPORT BY: Summer Isham, Contracts Supervisor

SUBJECT: Adoption of a Resolution to Delay Implementation of Senate Bill 43

RECOMMENDATION

Director of Health and Human Services Agency (HHS) requests adoption of a Resolution to defer implementation of Senate Bill (SB) 43 to January 1, 2026, as allowed by law.

EXECUTIVE SUMMARY

Approval of this Resolution will allow the County the time needed to develop the infrastructure and continuum of care, programming, and resources to provide for appropriate services and treatment required by SB 43.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed: Healthy, Safe, and Welcoming Place to Live, Work, and Visit

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On October 10, 2013, SB 43 was enacted, effective on January 1, 2024, to expand the definition of “gravely disabled” under the Lanterman-Petris-Short (LPS) Act. This bill reflects significant changes to California’s conservatorship laws for the first time in more than 50 years and is effective less than three months after its passage. The new definition expands the population who can be placed on an involuntary psychiatric hold or LPS conservatorship by now allowing for the involuntary detention and conservatorship of individuals on the basis of a standalone severe substance use disorder (SUD) (i.e., without a mental health diagnosis), or a co-occurring mental health disorder and SUD disorder, in addition to the existing inability to provide for basic personal needs as a result of a mental health disorder.

A significant implementation issue for Napa County, and the overwhelming majority of counties in California, is the lack of infrastructure and thus inability to actually provide for involuntary SUD treatment, as California has no such system of care. In addition, funding for SUD treatment is limited, even under Medi-Cal. The current treatment landscape does not address involuntary treatment for individuals with SUD.

In Napa County under LPS, only law enforcement officers and individuals designated by the County may, with probable cause, detain a person and take them into custody for a grave disability psychiatric assessment based on mental illness. The County currently does not have criteria for a grave disability threshold under “severe substance use disorder,” as no such assessment currently exists statewide. The County will need to develop criteria and policies, as well as protocols for designating individuals to perform severe SUD grave disability assessments. Further, in an unprecedented behavioral health workforce shortage, there will be a need to recruit and hire staff to perform severe SUD grave disability assessments. Because SB 43 also expands LPS criteria to include an assessment of whether an individual is able to provide for their personal safety and medical care as a result of chronic alcoholism, without involuntary detention, counties will need to develop policies and procedures for how these determinations will be made, along with qualified licensed health care providers. Finally, it is estimated that this change in LPS conservatorship criteria expands the population potentially subject to detention from approximately 1% to approximately 10% of the population.

In addition to the County being unable to provide for conservatorship placements for this expanded population in an ecosystem statewide that lacks sufficient SUDS treatment facilities, let alone locked facilities, there would be significant impacts on the County’s local hospital systems, including Providence Queen of the Valley Medical Center and St. Helena Hospital. The hospital systems would become de facto placements creating significant bottlenecks and overflows in the emergency departments, resulting in delays for those accessing immediate life threatening emergency care. Without an alternative destination, patients identified under severe SUD holds would languish in emergency departments for unknown periods of time, as there is no viable treatment solution. This would also hold true for those identified in county jails.

Notably, these new law changes do not provide any new State funding. The State provides no funding toward Public Guardians, funding for designated individuals to conduct assessments, or the Patient’s Rights Advocates needed to make determinations and conduct investigations and manage conservatorships.

Due to the above, it is in the best interest of Napa County to defer implementation of SB 43 until January 1,

2026, as set forth in the legislation. This deferral will allow time for additional financial resources to be allocated to counties in order to develop the infrastructure and continuum of care to provide the appropriate and needed service provision to the population now enveloped under SB 43. In addition, the implementation of the Community Assistance, Recovery and Empowerment (CARE) Act on December 1, 2024, will provide Napa County the opportunity to gain more data to understand the actual need, as well as develop infrastructure and programming, and continue behavioral health workforce recruitment given the historic state-wide shortage.