



# COUNTY OF SAN DIEGO

## AGENDA ITEM

### BOARD OF SUPERVISORS

NORA VARGAS  
First District

JOEL ANDERSON  
Second District

TERRA LAWSON-REMER  
Third District

VACANT  
Fourth District

JIM DESMOND  
Fifth District

**DATE:** August 29, 2023

**DRAFT**

**XX**

**TO:** Board of Supervisors

### **SUBJECT**

**ADOPT A RESOLUTION REAUTHORIZING THE APPLICATION OF CALIFORNIA WELFARE AND INSTITUTIONS CODE SECTION 5270.10 ET SEQ. (DISTRICTS: ALL)**

### **OVERVIEW**

California Welfare and Institutions Code (WIC) section 5000 *et seq.* (Lanterman-Petris-Short [LPS] Act) provides for a continuum of involuntary evaluation and treatment for persons with mental health disorders who are a danger to themselves or others, and gravely disabled persons. On May 6, 2014 (7), the San Diego County Board of Supervisors (Board) adopted a resolution authorizing the application of WIC sections 5270.10-5270.65 within San Diego County. This authorization provided for a specific, intensive mental health treatment and evaluation period of 30 days for gravely disabled persons who need the additional duration of time in a controlled setting to stabilize.

Recent statutory changes provide that at the end of the initial 30 days of intensive treatment, a second 30-day intensive treatment period may occur under certain qualifying circumstances. For certain qualifying individuals, these additional days of intensive treatment can provide an opportunity to address their disability and adjust to medications, when their treatment necessitates this additional time for stabilization. Today's action requests the Board update the 2014 Board resolution to acknowledge the addition of these new statutory provisions.

### **RECOMMENDATION(S)**

#### **CHIEF ADMINISTRATIVE OFFICER**

Adopt the resolution entitled RESOLUTION REAUTHORIZING THE APPLICATION OF CALIFORNIA WELFARE AND INSTITUTIONS CODE SECTION 5270.10 ET SEQ.

### **EQUITY IMPACT STATEMENT**

An estimated 5% of San Diegans have a serious mental illness (SMI). While SMI is prevalent in all San Diego County communities, there are certain groups that have disproportionately high rates of SMI. Particularly, 2021 data from the California Department of Healthcare Access and Information indicates rates among Black/African American residents were 145% higher compared to other racial and ethnic groups. Additionally, according to the California Health Interview Survey conducted by the University of California Los Angeles in 2021, 10% of San Diegans reported experiencing serious psychological distress in the past month. However, residents living below

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200% of the federal poverty level, those who reported a history of incarceration, or who identified as black, Hispanic/Latino, Asian, or multiracial, reported higher percentages of serious psychological distress compared to others.

If approved, today's action will support the County of San Diego's vision of a just, sustainable, and resilient future for all by supporting a behavioral health continuum of care that is equitable and allows people with serious mental health conditions to be served in the least restrictive setting.

### **SUSTAINABILITY IMPACT STATEMENT**

Today's proposed action supports County of San Diego Sustainability Goal #4 to protect the health and wellbeing of everyone in the region by ensuring people who are gravely disabled due to a mental illness or a substance use disorder, are served in the least restrictive setting and have as many opportunities as possible to be engaged in treatment.

### **FISCAL IMPACT**

California Welfare and Institutions Code (WIC) Section 5270.12 requires a finding that application of the WIC Sections 5270.10 *et seq.* is funded either by new funding sufficient to cover the costs incurred by the County of San Diego (County) resulting from this article, or funds redirected from cost savings resulting from the 30 day intensive treatment period, or a combination thereof, so that no current service reductions will occur. It is anticipated that continued authorization will not result in any new costs to the County. For reference, no additional County costs or reductions in service levels were identified as resulting from the Board's 2014 authorization. There is no fiscal impact associated with this item. There will be no change in net General Fund costs and no additional staff years.

### **BUSINESS IMPACT STATEMENT**

N/A

### **ADVISORY BOARD STATEMENT**

At their regular meeting on August 3, 2023, this item was presented to the Behavioral Health Advisory Board as informational.

### **BACKGROUND**

In the State of California, the legal basis for the civil commitment of persons with serious mental illness is the Lanterman-Petris-Short (LPS) Act (California Welfare and Institutions Code [WIC] section 5000 *et seq.*). Within the LPS Act, there is a continuum of involuntary psychiatric detentions and intensive treatment for individuals who are gravely disabled as a result of mental illness or alcoholism. Gravely disabled persons are those who, as a result of a mental disorder or chronic alcoholism, are unable to provide for their basic needs for food, clothing, or shelter. The LPS Act mandates that a person be evaluated and treated in the least restrictive setting, and be given the right to a court hearing when detained involuntarily.

Involuntary treatment periods under the LPS Act include: an initial 72-hour evaluation period; a subsequent 14 days of intensive treatment; an additional 30 days of intensive treatment (in counties that have authorized this treatment period); 180 days of intensive treatment for imminently

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dangerous individuals; temporary 30-day conservatorships; and permanent conservatorships that end one year from the date of appointment, unless a petition for reappointment is filed and granted by the court.

On May 6, 2014 (7), the San Diego County Board of Supervisors (Board) adopted a resolution authorizing the application of WIC Sections 5270.10-5270.65 within San Diego County. This authorization permitted a 30-day intensive treatment period for gravely disabled persons when such holds are necessary for the safety and well-being of the individual. The legislative intent of the 30-day intensive treatment period is to provide an additional method of serving an individual who needs additional time to stabilize—but not long enough to justify a one-year conservatorship. For example, some patients may only need one or two months in a restrictive setting to stabilize on psychiatric medications. The County of San Diego Health and Human Services Agency, Behavioral Health Services data indicates that since 2015 the 30-day intensive treatment period option has been used an average of 245 times per year. 30-day intensive treatment periods have been found to be effective in stabilizing certain patients.

Recent statutory changes now allow a second 30-day intensive treatment period in counties such as San Diego that have already authorized the initial 30-day intensive treatment period. These changes include:

- An amendment to WIC Section 5270.55 to authorize the professional person in charge of a designated LPS facility providing intensive treatment to file a petition in the superior court for up to an additional 30 days of intensive treatment.
- WIC Section 5270.70 requires:
  - The court to immediately appoint an attorney to represent the patient;
  - The LPS designated facility must make reasonable attempts to notify family members or any other person designated by the patient, of the time and place of the judicial review, unless the patient requests this information not be provided; and
  - The court to deny the petition or order an evidentiary hearing to be held within two courts days after the petition is filed, with specific criteria to be met in order to extend the 30-day intensive treatment period.

A second 30 days of intensive treatment can help reduce the need to initiate a lengthier and more restrictive one year conservatorship for those who only need a shorter period of time to stabilize in a restrictive setting.

Today's action requests the Board adopt the updated resolution to reflect the current statutory provisions for an additional 30-days of intensive treatment.

**LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN**

Today's proposed actions support the County of San Diego's (County) 2023-2028 Strategic Plan initiatives of Equity (Health) and Community (Quality of Life) as well as the regional *Live Well San Diego* vision, by supporting a behavioral health continuum of care that allows people with serious mental health conditions to be served in the least restrictive setting while upholding the rights of all individuals and their family members.

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Respectfully submitted,

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HELEN N. ROBBINS-MEYER  
Interim Chief Administrative Officer

**ATTACHMENT(S)**

Attachment A - RESOLUTION REAUTHORIZING THE APPLICATION OF CALIFORNIA WELFARE AND INSTITUTIONS CODE 5270.10 ET SEQ.

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