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July 20, 2018

Honorable Anthony J. Portantino
Chair, Appropriations Committee
California State Senate
Capitol Building, Room 3086
Sacramento, CA 95814

RE: AB 1971 (SANTIAGO) as amended July 3, 2018 – OPPOSE

Dear Senator Portantino:

The signatory members below all advance and protect the civil rights of Californians with disabilities and regret to inform you that we respectfully **oppose AB 1971**. This bill is scheduled for hearing in the Senate Appropriations Committee.

This bill seeks to expand the “gravely disabled” definition contained within the Lanterman-Petris-Short Act (LPS) to allow Los Angeles County to seek and obtain conservatorships of individuals that, they believe, are otherwise unable to provide for their own medical care. We are opposed to this expansion.

Significant amendments were taken in the Senate Judiciary Committee. We greatly appreciate the efforts of the Judiciary Committee Chair and Committee Counsel that have analyzed this bill and the efforts of the authors and their sponsors to recognize the concerns that we have raised with the approach in this bill to expand the reach of involuntary holds and conservatorships.

The most recent amendments to the bill currently limit the bill to Los Angeles County and contain a number of protections to this expansion but are insufficient to overcome the important risks that it poses. Thus, unfortunately, we remain opposed to AB 1971 because it: 1) expands involuntary holds, treatment and conservatorships in Los Angeles County; 2) restricts the personal autonomy rights of persons with disabilities; 3) is unnecessary because all of the stated needs of the bill can be accomplished within existing law; and 4) does not ensure that there are available resources to implement the program in Los Angeles County.

In 1968, the LPS was enacted to provide a protective legal structure for the involuntary civil commitment of individuals who, due to a mental illness, pose a danger to self or to others, or who are gravely disabled. LPS defines

“gravely disabled” as an individual’s inability, as a result of a mental health disorder, to provide for his or her basic personal needs for food, clothing or shelter. An individual who is gravely disabled can be held for a short period (i.e. WIC 5150, 5250) and eventually, put on a conservatorship where the conservator ensures provision of food, clothing, and shelter. Most individuals on conservatorships live in locked, psychiatric institutions.

The Legislature has also established the Assisted Outpatient Treatment Demonstration Project Act (AOT), known as “Laura’s Law”, to allow counties to provide services for individuals with serious mental illnesses when a court determines that a person is unlikely to survive safely in the community without supervision and the person has a history of lack of compliance with treatment for his or her mental illness. Lack of compliance is evidenced by a person’s mental illness being a substantial factor in necessitating hospitalization within the last 36 months. To implement an AOT program, a county must opt into the program and meet specific planning and service delivery requirements. Los Angeles County has opted into full implementation of AOT.

LPS was built upon furthering the personal autonomy rights of all people with disabilities, and particularly the right to self-direction and self-determination. This bill rests on the assumption that mental illness may be causing resistance to care when in fact the lack of housing, services or medical care and the intrusive conditions placed on receiving them results in individuals living on the streets in order to retain their self-determination.

Current law already allows for involuntary treatment of individuals “unable to carry out transactions necessary for survival or to provide for basic needs.” Homeless individuals refusing available care for life threatening medical conditions meet this definition and are regularly conserved by courts when found necessary. There has been no showing of current barriers in existing law or practice that prevent counties from providing the care and services they propose in this bill.

AOT also allows for the involuntary treatment of individuals “unable to carry out transactions necessary for survival or to provide for basic needs” if voluntary care has been rejected. Homeless individuals refusing available care for life threatening medical conditions meet this definition are regularly conserved under LPS by courts when found necessary. There has not been any showing of current barriers in existing law or practice that prevent counties from providing the care and services they propose with this bill.

We assert there is no point to more aggressive intervention if there is no place to house and treat the people who need help. Nothing in this bill expands services or creates more housing, or medical or mental health care, which is what the real problem is. There are already significant delays in receiving services in LA and throughout the state -- ER, specialty services, substance abuse treatment, full service partnerships and transitional and supported housing are not readily available. Which raises the question, if those services are available, why are they not being used now for those who do not need conservatorships?

It should also be noted, LPS conservators do not have the power to force physical health treatment on individuals held for psychiatric care. The law requires a probate order for involuntary medical treatment.

Thus, we believe that changing the definition of “grave disability” will not solve the problems the bill seeks to remedy, i.e. ensuring that there are housing and services for those in need. This is particularly the case when weighed against individuals’ loss of freedoms and their rights to self-direction and self-determination.

It should also be noted that the California State Auditor recently examined the fund balances of local mental health agencies’ Mental Health Services Act (Prop. 63) fund balances reporting that statewide there is \$2.5 billion in fund balances. The total in Los Angeles is \$737,000 of which \$236,000 is in reserves and accumulated interest. To truly address the issues presented by this bill, LA County needs to ensure that there are sufficient and effective housing and services, such as supportive housing. These funds in LA and statewide should be used for real solutions and not the approach taken here.

Bill Costs

The Assembly Appropriations Committee analysis noted that there would be potentially significant statewide costs for increased medical enrollment and corresponding health care costs; significant GF cost pressure on state trial courts in the low millions associated with a higher number of case filings for 14-day holds, 30-day holds and conservatorships; and, significant costs to counties, potentially in the millions of dollars statewide for additional conservatorship investigations and conservatorships which are likely not to be state-reimbursable. With the latest amendments the additional costs would not include statewide implementation since the bill is now limited to Los Angeles County. The bill imposes a state-mandated local program.

Conclusion

For these reasons, we collectively and respectfully oppose this bill. Please contact us if you have any questions about our position or if we can provide any further information.

Sincerely,

American Civil Liberties Union
Bazon Center for Mental Health Law
California Advocates for Nursing Home Reform
California Association of Mental Health Patients' Rights Advocates
California Association of Mental Health Peer Run Organizations
California Association of Social Rehabilitation Agencies
California Pan-Ethnic Health Network
Coalition on Homelessness San Francisco
Disability Community Resource Center
Disability Right Advocates
Disability Rights California
Disability Rights Education and Defense Fund
Law Foundation of Silicon Valley
National Health Law Program
Sacramento Regional Coalition to End Homelessness
SEIU California
Western Center on Law and Poverty
Western Regional Advocacy Project

cc: Honorable Miguel Santiago, California State Assembly
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Lauren Aguilar, Legislative Director, Office of Assembly Member
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