

## RESOLUTION NO. 2023-216

### RESOLUTION OF THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY DEFERRING IMPLEMENTATION OF THE CHANGES MADE TO WELFARE AND INSTITUTIONS CODE SECTION 5108 BY SENATE BILL 43 (2023-2024 REG SESSION)

On Tuesday, December 19, 2023, on motion of Supervisor Hagman, duly seconded by Supervisor Cook and carried, the following resolution is adopted by the Board of Supervisors of San Bernardino County, State of California.

**WHEREAS**, the Lanterman-Petris-Short (LPS) Act (Welfare and Institutions Code section 5100, et seq.) provides for the evaluation and treatment of a person who is gravely disabled, which is defined to mean a condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter; and

**WHEREAS**, Senate Bill 43 (2023-2024 Reg. Session), Statutes 2023, Chapter 637 (SB 43), signed by the Governor on October 10, 2023, expands the definition of gravely disabled to include a person who, as a result of a mental health disorder, a severe substance use disorder (SUD), or a co-occurring mental health disorder and a severe SUD, or 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; and

**WHEREAS**, this expanded definition of gravely disabled becomes effective on January 1, 2024; and

**WHEREAS**, the responsibility for administering the LPS system falls largely with counties; and

**WHEREAS**, SB 43's expansion of the definition of grave disability will require a significant effort in building and expanding the treatment, workforce, delivery networks, housing capacity and models for locked treatment settings or models of care for involuntary SUD treatment to successfully meet the conservatorship needs of the population; and

**WHEREAS**, SB 43's expansion of LPS criteria to include individuals with a severe SUD, this change in policy would significantly expand the portion of the population potentially subject to detention and conservatorship under LPS from around 1% to around 10% of the population based on SUD prevalence estimates; and,

**WHEREAS**, SB 43 will require counties to develop criteria for a "severe SUD" grave disability assessment, as no such assessment currently exists as well as protocols for designating individuals to perform severe SUD grave disability assessments and to recruit and hire staff to perform the new function of severe SUD grave disability assessments;

**WHEREAS**, SB 43 expands LPS criteria to include an assessment of whether an individual is unable to survive safely in community or provide for necessary medical care 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; and,

**WHEREAS**, in addition, hospitals will be without qualified designated individuals to perform the assessments needed to remove involuntary holds, when appropriate, or recommend conservatorship when appropriate and because there is currently no locked treatment capacity for individuals with severe SUD and limited capacity for co-occurring medical conditions, local hospital emergency departments will be impacted by additional individuals who are boarding in the absence of this new treatment capacity; and,

**WHEREAS**, SB 43 will expand the demand for county public guardians, Patient Rights Advocates, County Counsel, and county behavioral health staff and treatment providers; and,

**WHEREAS**, SB 43 will require the build out of new and novel treatment capacity such as locked SUD treatment facilities which currently do not exist in California; and,

**WHEREAS**, the breadth of that effort requires more time than SB 43's effective date allows;

**WHEREAS**, in recognition of this, Welfare and Institutions Code section 5008, subdivision (h)(4), as enacted by SB 43, provides that a county, by adoption of a resolution of its governing body, may elect to defer implementation of the changes made to this section by SB 43 until January 1, 2026, thereby postponing implementation of the new definition of grave disability; and

**WHEREAS**, implementation of SB 43 will require necessary planning, training, and external collaborative efforts within San Bernardino County along with other agencies.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors for San Bernardino County as follows:

1. Pursuant to Welfare and Institutions Code section 5008, subdivision (h)(4), as enacted by SB 43, San Bernardino County hereby elects to defer implementation of the changes made by that bill to Welfare and Institutions Code section 5008.
2. San Bernardino County shall implement Section 5008 of SB 43 by January 1, 2025.
3. The County Administrative Office shall establish a process to implement SB 43 to include a multi-sectional planning process with other County departments and agencies impacted by and/or involved with the implementation of SB 43 in San Bernardino County.

PASSED AND ADOPTED by the Board of Supervisors of San Bernardino County, State of California, by the following vote:

AYES: SUPERVISORS: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe  
Curt Hagman, Joe Baca, Jr.

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

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STATE OF CALIFORNIA            )  
  )  
SAN BERNARDINO COUNTY        )        ss.

I, **LYNNA MONELL**, Clerk of the Board of Supervisors of San Bernardino County, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of December 19, 2023. Item #30

LYNNA MONELL  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy