

SENATE BILL 43

Implementation Update

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Overview of SB 43



- Signed into law by Governor Newsom in October, 2023.
- Most significant reform to the LPS Act since it was enacted in 1967.
- Significantly expands California's criteria for involuntary detention and conservatorship by creating a new set of eligibility criteria that are based solely on a person's mental health disorder and/or "severe" substance use disorder (SUD), if that disorder results in someone being unable to provide for their basic needs of food, clothing, shelter, personal safety or necessary medical care.
- Allows health records to be used as evidence in LPS conservatorship proceedings.
- Expands Grave Disability definition.
- Functionally, allows people to be placed on 5150's and other involuntary holds based on their "severe" SUD.

Grave Disability Pre/Post SB43

Elements of Grave Disability Definition	Old Definition	New Definition
Mental Health diagnosis is a basis for Grave Disability (“GD”)	✓	✓
Stand-alone Substance Use Disorder (“SUD”) is a basis for GD		✓
Co-occurring Mental Disorder and SUD is a basis for GD	✓	✓
Inability to provide for food, clothing, shelter is a basis for GD	✓	✓
Inability to provide for necessary medical care, likely to result in serious bodily injury, is a basis for GD		✓
Inability to provide for personal safety, to survive safely without involuntary detention or treatment, is a basis for GD		✓
Causation required between Mental Disorder/SUD and inability to provide for basic needs	✓	✓
Referral from psychiatrist/psychologist required for conservatorship petition	✓	✓
Constitutional rights/protections for patients subject to involuntary holds and conservatorships	✓	✓

Overview of LPS Act

Effective implementation of Senate Bill (SB) 43 first requires an understanding of the Lanterman-Petris-Short (LPS) Act

- LPS was first enacted in 1967 given widespread use of institutionalization prior to the 1960s and long history of abuse and patients' rights concerns in state hospitals across the country
- LPS established due process to avoid the widespread indiscriminate and inappropriate application of involuntary psychiatric care

“LPS 101”

- **LPS laws** – Govern involuntary psychiatric care throughout California
- **LPS designated people** – People designated by County Behavioral Health Departments who can place people on involuntary holds, most notably 5150's
- **LPS facilities** – Facilities with specific safeguards and staffing requirements that are approved to provide locked, involuntary psychiatric care throughout California



Different Types of LPS Laws re: Involuntary Holds (Civil Commitment)

WIC 5150 involuntary hold

- Up to 72-hrs for evaluation and treatment
- Based on probable cause that someone is a danger to self, danger to others, or **gravely disabled*** (*the definition of grave disability [GD] is what has changed under SB 43*)

WIC 5250 involuntary hold

- Up to 14-days; 5250's follow the initial 5150
- Continues to be danger to self or others, or gravely disabled**
- Unwilling or unable to accept voluntary treatment

WIC 5270 involuntary hold

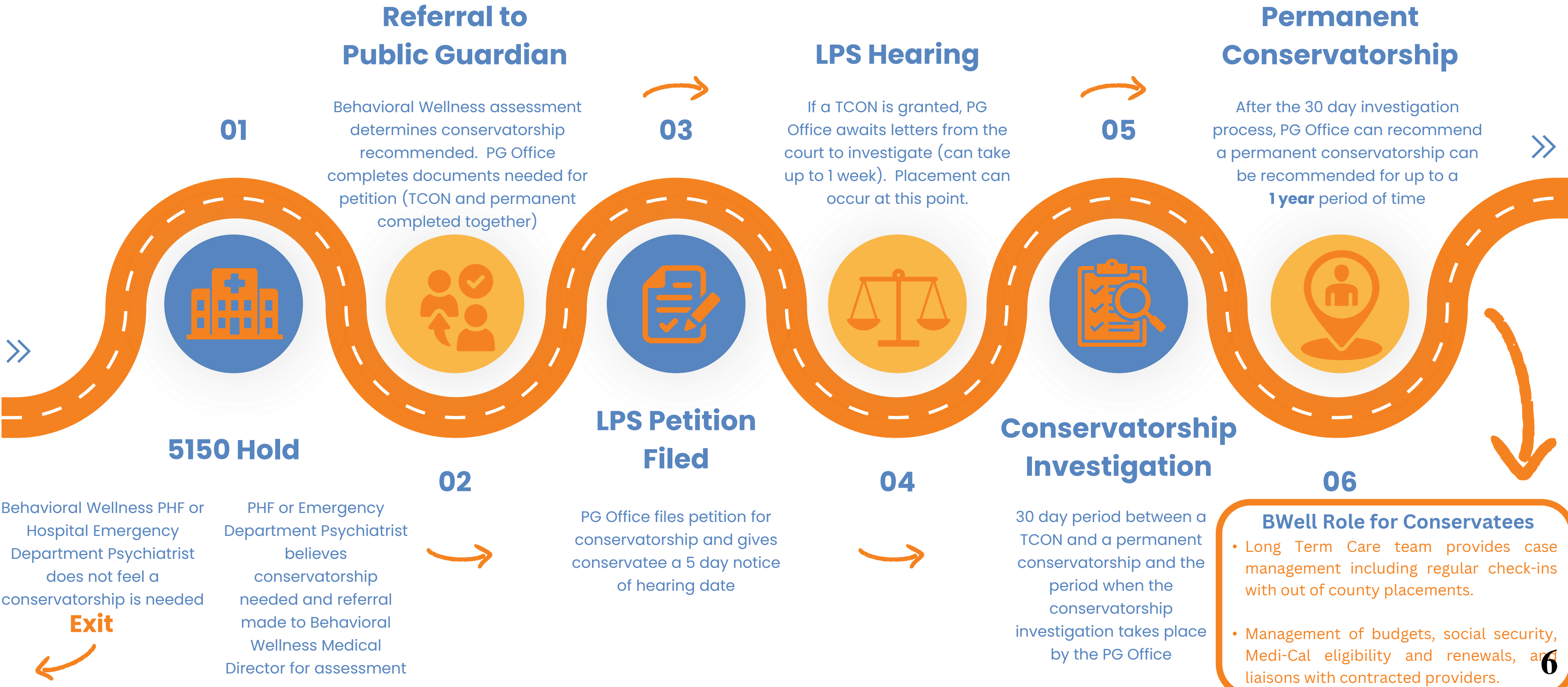
- Up to 30-days; 5270's follow a 5250**
- **Recognized that stabilization not possible and a referral is made for an LPS conservatorship**

“Temporary (TCON)/Permanent” LPS Conservatorship

- Up to 1-yr (renewable)
- Beyond a reasonable doubt that person remains gravely disabled and unwilling or incapable of accepting treatment voluntarily

*This is intended to be a summary and not a comprehensive list of all Welfare & Institutions Codes (WIC) pertinent to LPS


Roadmap from 5150 to Conservatorship



Types of LPS Facilities

The following facilities are the only types allowable for LPS designation:

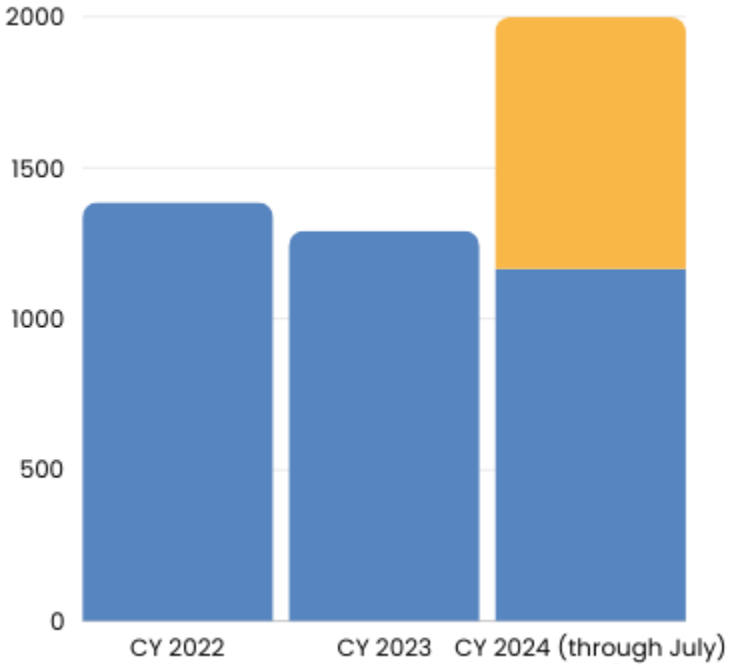
- General Acute Care Hospital*
- Acute psychiatric hospitals*
- Skilled Nursing Facilities
- Jail Inpatient Units
- Psychiatric Urgent Care Center or Crisis Stabilization Unit (23 hour 59 minute outpatient facility)
- Psychiatric Health Facility
 - Inpatient psychiatric hospital setting



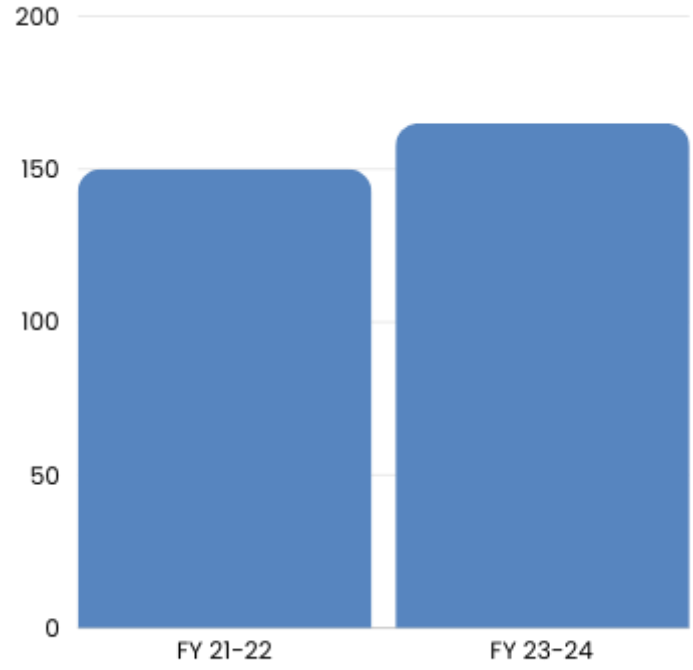
*Currently, the only facilities potentially allowable for SUD LPS designation

Local Data and Observations and Trends

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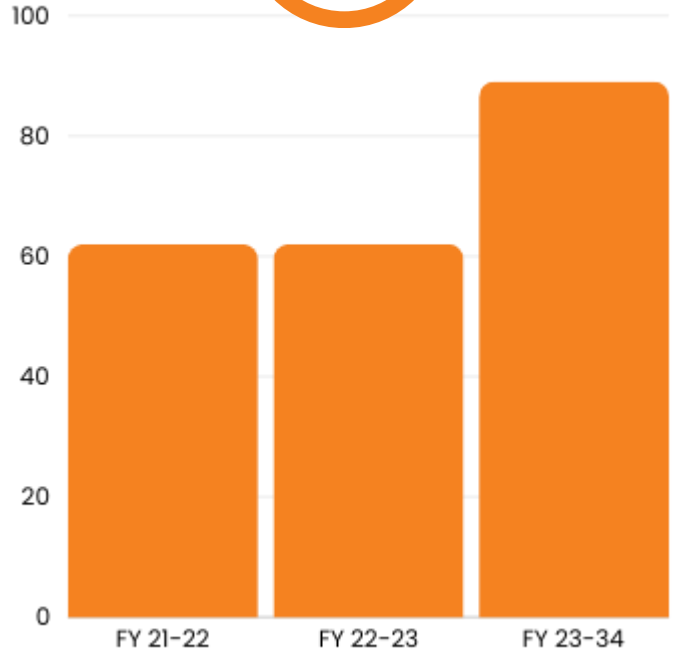


5150 Holds Written
There has been an increase in holds written. There was a decrease in holds written from FY 22-23 (**1383**) to FY 23-24 (**1743**). In FY 24-25 through July 31, **75** holds had been written.



Ongoing LPS Cases
There has been a steady increase in ongoing clients. Over the last three fiscal years, rising from **150** in FY 21-22 to **160** in FY 22-23 to **165** in FY 23-24.

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LPS Investigations
LPS conservatorship evaluations have increased significantly. From FY 21-22 and FY 22-23 (**both 62**) to FY 22-23 (**89**).

Public Guardian

Current Impact and Staffing Needs



Current Impact

Over the past 3 years, the Public Guardian has seen a steady increase in cases, with LPS investigations up by 44%, and all absorbed by current staffing levels. The current staffing is overtaxed and unable to manage additional referrals expected through SB 43.

San Francisco County implemented SB 43 in January of 2024 and has seen a 50% increase in referrals to the Public Guardian office in the first 6 months.

Staffing Needs

In order to stabilize current staffing impact and allow capacity for additional referrals through SB 43, the Public Guardian calculates needing 2 new Deputies and 1 Financial Office Professional (FOP) with a cost of \$242K for FY 2024-25 and \$458K annually ongoing in FY 2025-26.

This expansion in staffing includes the need for expanded office space to accommodate the team growth. Public Guardian is working with the CEO on positions and budget adjustments as needed.



Implications of SB 43

Anticipated departmental impacts of SB 43

- Significant overhaul of current 5150 system training (including re-training of existing staff and partners) to include SUD only determination
- More evaluations for 5150s overall
- May increase LPS conservatorship applications, evaluations and placements
- Staffing and fiscal increases

Potential Benefits

More people receiving services they need = if 5150s translate to meaningful SUD treatment engagement, whether it be voluntary in traditional SUD treatment settings or in LPS facilities

Potential Drawbacks

- Patient rights violations = Widening equity gaps
- Further deterring people from disclosing substance use = Widening treatment gaps
- Constraints in LPS capacity = Longer wait times for placements and further shortening admissions
- LPS settings not familiar with SUD = Suboptimal care with revolving door readmissions

Implementation in Santa Barbara County



Consistency

A collaboration of statewide County Behavioral Health Directors and County Public Guardians is working to ensure a consistent standardization of the application of the expanded grave disability definition as defined under SB 43.



Collaboration

Behavioral Wellness and the Public Guardian's Office meets on a regular basis to assess implications, plan and design an effective implementation of SB 43 specific to Santa Barbara County.



Communication

Information on SB 43 and the planning for local implementation is being shared with countywide stakeholders and partners to assure a shared understanding of SB 43 as well as gather input on local implementation planning.



Planning

Planning for changes in training, system mapping, client flow, treatment service delivery – including strategies for treating severe SUD only clients in the LPS branch of the overall system.



Assessment

Careful review of current system and expected system impact to determine realistic needs for fiscal and staffing increases.

Local Planning Actions

- Education for, and collaboration with, system stakeholders
- Awaiting further guidance (including SB 1238)
- Establishing client flow and system guidelines for the inclusion of “severe” SUD clients who are gravely disabled
- Creation of LPS 5150 training to include the new definition of grave disability
- Determine how care delivery will change under SB 43
- Collaboration with Courts, Public Guardian, and service partners on processes
- Determine staffing and fiscal impact
- Bed expansion opportunities

Implementation Timeline

Full and complete implementation will take time with evolution and growth expected. The goal is to bring more behavioral health crisis care into the local community.

Summer 2024

- Finalize & Operationalize Definitions of:
 - Severe SUD
 - Grave Disability (expanded def)
- Specific Guidance on Personal Safety & Accessing Medical Care in Regards to Grave Disability

Fall 2024

- Receive & Formalize Final State Guidance
- Begin Training Behavioral Wellness Staff & Public Guardians Office in SUD & Co-Occurring Disorders
- Refine the SB County 5150 Training

Winter/Spring 2025

- Roll Out New 5150 Training
- Secure Additional Office Space & Staffing for Public Guardian's Office
- Identification of Familiar/Possible Known SB43 Candidates

July 2025

Implementation Begins



THANK YOU

Input/Questions?



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COUNTY
one
FUTURE

DEPARTMENT OF
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A SYSTEM OF CARE AND RECOVERY