

LEGISLATIVE DIGEST

[Health Code - Assisted Outpatient Treatment (“Laura’s Law”)]

Ordinance amending the Health Code to authorize the implementation of court-ordered Assisted Outpatient Treatment for individuals with mental illness who meet the criteria established by California Welfare and Institutions Code §§5345-5349.5 (“Laura’s Law”), and making a finding that this authorization will not result in a reduction of current adult and juvenile mental health programs.

Existing Law

This article is new.

Amendments to Current Law

State law authorizes counties to implement Assisted Outpatient Treatment (“AOT”) also known as “Laura’s Law,” in order to provide court ordered mental health treatment for individuals with mental illness for whom other methods of entering and maintaining treatment have been unsuccessful.

AOT provides treatment through community-based, mobile, recovery-oriented, multidisciplinary, highly trained mental health teams with a staff-to-client ratio of no more than 10 clients per team member. These services include, but are not limited to, community-based comprehensive individual service and delivery plans, which plans shall be gender, age, disability, linguistically and culturally appropriate. The plans shall provide access to housing, and be designed to allow the person subject to petition (“Subject”) to live in the most independent, least restrictive setting possible.

The following persons may request the County Mental Health Director (“Director”) or the Director’s designee to file a petition with the Superior Court for AOT:

- Any person 18 years or older with whom the Subject resides;
- Any person who is the parent, spouse, adult sibling, or adult child of the Subject;
- The director of a facility providing mental health services where the Subject resides, the director of a hospital where the Subject is hospitalized, or a licensed mental health treatment provider who treats the Subject or supervises the treatment of the Subject; or,
- A peace, probation or parole officer assigned to supervise the Subject.

If the Director finds that good cause supports the request, he or she may file a verified petition with the Superior Court that sets forth all of the following:

- That the Subject is at least 18 years old and is present in the City;
- That the Subject is suffering from a mental illness as defined in California Welfare and Institutions Code §§ 5600.3(b)(2) and (3), or any successor provisions;
- That there has been a clinical determination that the Subject is unlikely to survive safely in the community without supervision;
- That there is a history of the Subject's lack of compliance with treatment, based on at least one of the following: (1) twice within the last 36 months, mental illness was a substantial factor in the Subject's hospitalization or receipt of mental health services in jail, or (2) within the last 48 months, the Subject's mental illness resulted in one or more acts of serious violent behavior toward himself or herself or others, or the Subject threatened or attempted to cause serious physical harm to himself or herself or others;
- That the Subject has been offered the opportunity to participate in a treatment plan, but continues to fail to engage in treatment;
- That the Subject's condition is substantially deteriorating;
- That participation in AOT would be the least restrictive placement necessary to ensure the Subject's recovery and stability;
- That the Subject's treatment history and current behavior indicate that the Subject needs AOT to prevent relapse or deterioration that would likely result in grave disability or serious harm to himself or herself, or in a civil commitment under California Welfare and Institutions Code §§ 5150, et seq.; and,
- That it is likely that the Subject would benefit from AOT.

The petition must be accompanied by the supporting affidavit of a licensed mental health treatment provider who must be willing and able to testify at the hearing and must base the affidavit on his or her personal examination of the Subject occurring no more than 10 days prior to the filing of the petition, unless the provider attempted to examine the Subject during that time, but the Subject refused to be examined.

After the petition is filed, but before the conclusion of the court hearing, the Subject or with the Subject's consent, the Subject's legal counsel, may waive the Subject's right to the hearing, and agree to obtain treatment under a written settlement agreement, provided an examining licensed mental health treatment provider states that the Subject could survive safely in the community. The term of the settlement agreement may not exceed 180 days.

The Superior Court may order AOT if the court finds that all of the elements of the petition, have been established by clear and convincing evidence.

The Subject of the petition has the following rights:

- To receive personal service of all notices of hearings, as well as notice to parties designated by the Subject;
- To receive a copy of the court ordered evaluation;
- To be represented by counsel, and if the Subject cannot afford counsel, to be represented by the Public Defender;
- To be present at all hearings, unless the Subject knowingly waives such right;
- To be informed of the right to judicial review by habeas corpus;
- To present evidence, call and examine witnesses, and cross-examine witnesses, at the AOT hearing; and
- To be informed of the right to appeal the court's decisions.

If Subject is not present at the AOT hearing, and the court orders AOT, the Subject may file a habeas corpus petition challenging the court's imposition of AOT on the Subject, and AOT may not commence until that petition is resolved.

During each 60-day period of AOT, the Subject may file a habeas corpus petition to require the Director to prove that the Subject still meets all the criteria for AOT.

If the Subject refuses to participate in AOT, the court may order the Subject to meet with the AOT Team who shall work with the Subject's to try to gain his or her cooperation with the treatment plan. If the Subject is still not cooperative, he or she may be subject to a 72- hour hold under California Welfare and Institutions Code §5346(f).

Failure by the Subject to comply with AOT is not a basis for involuntary civil commitment, or contempt of court.

Involuntary medication is not authorized under AOT without a separate and specific court order.

The court may order no more than six months of AOT. If the Director determines that further AOT for the Subject is appropriate, the Director must, prior to the expiration of the initial period, apply for court authorization to extend the time for an additional 180 days.

Every 60 days, the Director must file an affidavit with the court affirming that the Subject continues to meet the criteria for AOT. If the Subject disagrees with this affidavit, he or she has the right to a hearing, at which the Director has the burden of proving that the Subject continues to meet the criteria for AOT.

The Director of Public Health shall develop a training and education program, and is authorized to promulgate regulations to implement AOT.

The Department of Public Health shall comply with the reporting requirements under California Welfare & Institutions Code § 5348(d), and shall provide an annual report to the Board of Supervisors on the number of participants in AOT, the length of their treatment, the outcome of their treatment, and other matters the Departments deems relevant.

Background Information

Several independent studies of AOT programs in other states cited in a background paper prepared by the Treatment Advocacy Center (see, www.TreatmentAdvocacyCenter.org, Backgrounder: Assisted outpatient treatment (AOT) (updated 1/2120) for the citations to the studies referenced) show that AOT promotes long-term treatment compliance, and reduces the incidence and duration of hospitalizations, homelessness, arrests, incarcerations, violent episodes, and the victimization of individuals with mental illness by others, while also relieving caregiver stress. These same studies show that states and municipalities that have successfully implemented AOT realized cost savings in their respective mental health, criminal justice, and emergency care systems.

According to research cited in “Assisted Outpatient Treatment: Preventive, Recovery-Based Care for the Most Seriously Mentally Ill,” by Gary Tsai, M.D., *The Resident’s Journal*, a publication of The American Journal of Psychiatry, Volume 7, June 2012 , almost half of the individuals with a severe mental illness in the United States are untreated, and almost half of those individuals suffer from anosognosia (the inability to recognize one’s own mental illness) and possess significant deficits in self-awareness.) This same research also finds a clear link between lack of insight regarding one’s own mental illness and the inability to adhere to treatment, which results in poorer clinical outcomes, illness relapse, hospitalization, and suicide attempts.

For severely mentally ill individuals who are unable to maintain a consistent voluntary treatment regime, AOT provides a means to assist and support them through a structured treatment program.

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