



COUNTY OF HUMBOLDT

For the meeting of: 4/6/2021

File #: 21-375

To: Board of Supervisors

From: DHHS: Behavioral Health

Agenda Section: Departmental

SUBJECT:

AB1976 Mental Health Services: Assisted Outpatient Treatment

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve, and authorize the Chair of the Board to agree to the recommendation of opting out of Laura's Law - Assisted Outpatient Treatment;
2. Adopt the attached resolution opting out of Laura's Law; and
3. Direct the Clerk of the Board to return a certified copy of the attached resolution to the Department of Health and Human Services - Contract Unit for further processing.

SOURCE OF FUNDING:

Behavioral Health (1170)

DISCUSSION:

The Lanterman-Petris-Short (LPS) Act of 1967, codified as Welfare & Institutions Code §5000-§5556, provides, in part, for involuntary commitment of individuals with serious mental illness for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met.

In addition to involuntary treatment as provided for in the LPS Act, individuals suffering from the effects of mental illness who have pending criminal charges may request mental health diversion [Penal Code §1001.35-§1001.36] or misdemeanor diversion [Penal Code §1001-1001.9]. A treatment plan is then adopted by the court, and compliance is required by the participant in order to have pending criminal charges dismissed after successful completion.

As an alternative to diversion and/or involuntary commitment, current law also provides for court-ordered outpatient treatment, referred to as "Laura's Law," or "Assisted Outpatient Treatment" (AOT). In 2002, the California Legislature passed Assembly Bill 1421 (Thomson), which was written and implemented in memory of Laura Wilcox, a young woman who was killed by an individual with mental health issues who refused treatment. Laura's Law gives counties the option of implementing AOT programs for individuals who have difficulty maintaining their mental health stability and have

frequent hospitalizations and/or contact with law enforcement related to untreated or undertreated mental illness. Laura's Law previously required action by the county board of supervisors to authorize implementation. The law was recently amended, however, so that all counties will now be required to implement AOT, unless the county board of supervisors opts out of implementation.

Laura's Law is defined in California Welfare and Institutions Code sections 5345-5349.5 and is part of the LPS Act. Laura's Law, if adopted, creates an AOT program that provides court supervision of a voluntary treatment plan for persons with severe mental illness who meet the following criteria:

1. Must be 18 years of age or older;
2. Has a serious mental illness;
3. Is unlikely to survive safely in the community without supervision;
4. Has a substantially deteriorating condition;
5. Has a history of lack of compliance with treatment indicated by one of the following;
 - a. The person, within the last 36 months, has required psychiatric hospitalization or received services in a forensic or other mental health unit of a state correctional facility or local correctional facility due to their mental illness, two or more times; or
 - b. The person's mental illness has resulted in one or more attempts or threats of serious and violent behavior toward himself/herself or another within the last 48 months;
6. Has been offered an opportunity to voluntarily participate in treatment by county mental health and has not engaged or refused treatment;
7. Is able to benefit from treatment; and
8. Participation in AOT would be the least restrictive placement.

Counties that implement AOT, at a minimum, must have community-based, mobile, highly trained mental health teams that use high staff-to-client ratios of no more than 10 clients per team member. The program must include family outreach support, supportive housing/housing assistance and vocational rehabilitation. In addition, every 60 days, the Director of the AOT program is required to file an affidavit with the court, affirming continued AOT treatment and submit multiple data reports annually to the California Department of Health Care Services (DHCS). The law also requires that existing services "must not" be reduced to implement an AOT program. If current voluntary services will be reduced in order to accommodate AOT, the county is required to opt out.

OPPOSITION TO LAURA'S LAW

DHHS-BH is recommending the county opt out of this new program due to redundancy in services as well as significant ongoing costs and resource allocation requirements. In addition to increasing county Behavioral Health staff, it would require court proceedings, which would be staffed with court personnel as well as Sheriff personnel. The client would have the right to counsel, with Public Defender appointed when requested, who would then represent participants in all stages of the proceedings. County Counsel would likewise represent DHHS-BH, and have the responsibility of bringing all AOT petitions. Participants would have the right to request up to three evidentiary hearings (habeas review, initial petition, and reappointment petition) plus the right to appeal. At each evidentiary hearing, the participant would have the right to be present, present their own evidence, and

cross examine witnesses called by DHHS-BH. Witnesses at these hearings would likely be employees of DHHS-BH. In addition, each participant would have the right to a hearing every 60 days, where they may object to ongoing participation in AOT. The additional burden of providing these due process protections to participants would fall onto the county, and Superior Court, to provide.

Additionally, there is insufficient evidence to suggest better outcomes can be achieved or poor outcomes averted through the implementation of Laura's Law in the post-Mental Health Services Act (MHSA) era of public mental health program enrichment, which began in 2005.

DHHS- BEHAVIORAL HEALTH SERVICES

The AOT program strongly mirrors many programs that Humboldt County BH already provides such as:

- Comprehensive Community Treatment (CCT): The CCT Program helps people with severe mental illnesses live successfully in the community and reduces inpatient psychiatric hospitalizations. Individualized services are provided to meet specific client needs. A team of providers collaborates to deliver integrated services of the recipients' choice, monitor progress towards goals, and adjusts services over time to meet the recipient's changing needs. CCT is based on the Assertive Community Treatment model with modifications for smaller rural communities. Full Service Partnership (FSP) programs, offered through CCT, include medication management, crisis intervention, case management, peer support, family involvement, education, treatment for co-occurring disorders like with substance abuse and non-mental health services, such as food and housing. CCT serves approximately 300 clients per calendar year.
- Regional Services: As an MHSA-funded outreach and engagement program, Regional Services serves adults living in the outlying areas of the county that have a scarcity of behavioral health services. Clients can be met in their homes or in different community sites. The focus is on the stabilization, management, and reduction of psychiatric symptoms; the restoration and maintenance of functioning; the improvement of interpersonal effectiveness; and the development and maintenance of healthy support systems for clients. Regional Services receives referrals from other programs within DHHS as well as from many community providers.
- Mobile Response Team (MRT): The Mobile Response Team provides crisis intervention services to adults, children and youth in the field including homes, schools, hospital campuses and community settings countywide. The response team includes multi-disciplinary mental health professionals available 7 am - 7 pm, 7 days a week. Staff work closely with law enforcement, conducting clinical consultations, referrals and case management services for individuals and families in an effort to avoid unnecessary hospitalization. Established in 2015, the MRT serves approximately 500 clients per fiscal year, with over 90% of the referrals coming from hospital emergency departments and law enforcement. This program saves law enforcement time so they can respond to more emergent situations, and saves hospital

emergency department beds by reducing wait times for mental health assessments and connecting clients to the most appropriate level of care.

- Crisis Stabilization Units (CSU): The CSU functions as a mental health urgent care center for individuals who cannot wait for regularly scheduled appointments, but may not need emergency inpatient services. While individuals may be hospitalized after evaluation, many receive services at the CSU the same day and then return home. Urgent services are available 24/7.
- Crisis Intervention Team (CIT): A national training program that aims to connect the mental health community with law enforcement. Locally, CIT training has been held since 2007. This 5-day training is designed to increase knowledge about mental health services and issues for law enforcement officers in the field. It also enhances skills in dealing with people with mental illness and other disabilities. In addition to the training, Humboldt County CIT holds monthly stakeholder meetings to discuss strategies for addressing gaps and building on system-planning efforts in regard to improving outcomes for people experiencing mental health crises that come into contact with law enforcement. In November 2018, Humboldt County CIT started a new Monthly CIT Review Meeting to discuss microsystems level strategies for working with specific individuals in the community that experience severe mental illnesses and are involved in the criminal justice system. Participants include Adult Protective Services, housing providers, Substance Use Disorder (SUD) providers, DHHS-BH, Jail Mental Health Services, multiple law enforcement agencies, Open Door Mobile Health Services, Veteran's Services, and local hospital representatives. Since 2007, DHHS-Behavioral Health staff trained in the CIT model have sponsored and provided local CIT training for law enforcement and community members. To date, fourteen CIT sessions have trained 394 law enforcement officers and staff, 47 community providers/members, and 71 DHHS staff.
- Humboldt Programs for Recovery: Humboldt County Programs for Recovery: Substance Use Disorder (SUD) Treatment Services assist individuals who are experiencing substance use problems that are impacting their physical health, interpersonal relationships, or causing employment or legal issues. The SUD treatment program offers outpatient treatment one, two, or four days per week, depending on an individual's treatment needs. Individuals are assessed to ensure they meet medical criteria for treatment. SUD Treatment Services are designed to empower participants to develop the self-awareness and personal motivation needed to make positive and permanent changes in their lives. Program services are provided by substance abuse counselors and may include assessment, consultation and referrals, plan development, treatment and recovery services, parenting skills, skill development, case management, and/or service coordination.
- Community Corrections Resource Center (CCRC): The CCRC houses an interagency collaborative program providing correctional supervision, substance abuse, mental health assessment and treatment, and vocational services, as well as linkages to community-based services. The intent of this program is to reduce barriers to accessing needed services in order to reduce an offender's likelihood to commit a new offense, thereby increasing public safety.

CCRC serves approximately 1,035 clients per calendar year, with an average of 273 referred to residential care treatment and 293 receiving outreach services each year. To date, 2,261 CCRC clients have been linked to Social Services, with 166 being approved for MediCal and 493 for CalFresh benefits.

- Permanent Supportive Housing: Permanent supportive housing is an intervention that combines affordable housing assistance with voluntary support services to address the needs of chronically homeless people. It is designed for very vulnerable people who may be highly visible in the community and frequent utilizers of emergency services, hospitals, police and fire department interventions, and psychiatric hospitals.
- Pre-Trial Felony Mental Health Diversion Program: The court supervises intensive treatment for those whose crime has been attributed to their illness. These specialized court programs have proven outcomes reducing recidivism and improving behavior among individuals. This model includes mental health rehabilitation services, case management, medication support, housing assistance, benefits and entitlements assistance, education and employment assistance, family support and crisis intervention.
- 1001.36 Diversion Program: A discretionary pre-trial diversion procedure for a defendant charged with a misdemeanor or felony, who suffers from a mental disorder listed in the current Diagnostic and Statistical Manual of Mental Disorders (DSM-5), the symptoms of which can respond to treatment, if the mental disorder played a significant part in the commission of the charged offense. DHHS-BH is not mandated to provide treatment to diversion participants, but applied for and obtained a grant from DSH and is using those funds to accept individuals for diversion treatment. Although the grant was predicated on a minimum of 8 participants over a 3-year period, over 20 individuals have been accepted since grant approval on June 2, 2020.

PERFORMANCE OUTCOMES

Even though Laura's Law allows the court to order outpatient services, treatment is still voluntary, including medication. Failure to comply with an order for AOT alone is not sufficient grounds for involuntary civil commitment, or a finding that the person is in contempt of court, and compliance cannot be ordered as a term of one's probation. Since no civil or criminal penalties are incurred for refusing to participate, the law's power lies only in the "black robe" effect of the judge being able to convince the person with mental illness to accept treatment. Therefore, should an individual fail to participate in court-ordered AOT, there are no legal consequences for failure to comply. A patient may be held for up to a 72-hour involuntary stay in the hospital, but only if the participant meets the criteria set forth in Welfare and Institutions Code section 5150, which would apply regardless of whether the participant is in AOT or not.

DHHS-BH programs all have stronger performance outcome measures when compared to the most successful AOT programs from other Counties. Per DHCS AOT reports, the 13 counties that served 227 people in Fiscal Year (FY) 2018-2019 reported that they decreased inpatient psychiatric hospitalizations by 33%, decreased homelessness by 30%, decreased contact with law enforcement by

43%. It is important to note that the majority of counties run AOT through their FSP programs. Humboldt County DHHS-BH has seen more successful outcomes in its Comprehensive Community Treatment (CCT) program which serves approximately 300 clients per calendar year. There has been a 46% decrease in the number of clients experiencing a stay at a psychiatric hospital, a 55% decrease in the number of clients experiencing an emergency shelter or homelessness and a 65% decrease in the number of clients experiencing incarceration.

CURRENT LAW AB1976

AB1976, which was passed by the state legislature and approved by Governor Newsom on Sept. 25, 2020 amends Laura's Law as set forth on Attachment 1 and will go into effect July 1, 2021. The amended law requires a county to implement an Assisted Outpatient Treatment (AOT) program, or opt out of this requirement by a resolution passed by the governing body of the county, which includes a statement as to the reasons for opting out, and the facts or circumstances relied on in making that decision. AOT is not a funded program and Counties are not allowed to reduce current services in order to implement AOT, per this legislation.

FINANCIAL IMPACT:

No funds were allocated for the implementation of AOT services; therefore, additional funding sources would be required. If AOT was to be implemented, alternate funds would have to be requested, which could include county General Fund dollars.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing community-appropriate levels of service and managing our resources to ensure sustainability of services.

OTHER AGENCY INVOLVEMENT:

Superior Court (Presiding Judge), Sheriff, Probation, District Attorney, Public Defender, County Counsel.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

DHHS-BH strongly asserts that AOT services in Humboldt County would be redundant services taxing an already impacted system at a time when revenues to support DHHS-BH (Realignment and MHSA) are plummeting due to the Covid-19 Pandemic. DHHS-BH is confident in its current delivery system and recommends that the Humboldt County Board of Supervisors opt out of AOT.

The Board may choose not to approve this resolution; however, that is not recommended due to the potentially significant ongoing costs and workload required to oversee AOT cases for the County. The California Assembly Bill Analysis determined that the average court cost would be \$7,896 a day (or \$987 an hour) to operate a courtroom, exclusive of the judge's salary. Significant costs would also be incurred by the Public Defender, as all AOT participants must receive due process under the law, including adequate representation. The Public Defender estimated costs at between \$60,000.00 and \$75,000 per fiscal year for a half-time attorney position. It is also likely that costs would be incurred for additional clerical support staff hours as well. County Counsel estimates costs incurred for their

department at somewhere between \$12,000 and \$24,000 for the first fiscal year, and then between \$8,000.00 and \$16,000.00 annually once the program becomes established. The estimated cost for DHHS-BH to staff this program would be \$558,446.45 for the first fiscal year. DHHS-BH does not have additional funds to start up programming to meet the requirements of AOT.

ATTACHMENTS:

1. Assembly Bill Number 1976
2. Resolution to Opt Out of Laura's Law
3. Assisted Outpatient Treatment (AOT) Fact Sheet
4. Compilation of Current County Behavioral Health Services Similar to AOT

PREVIOUS ACTION/REFERRAL:

Board Order No.: G-1

Meeting of: 08/18/20

File No.: 20-1031; 21-375