

WHEN COMMUNITY-BASED  
MENTAL HEALTH  
TREATMENT FALLS SHORT:  
JUVENILE COURT and the  
LANTERMAN-PETRIS-SHORT  
(LPS) ACT

BEYOND THE BENCH CONFERENCE  
SAN DIEGO 2019

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## OVERVIEW

- LPS Act
- Concurrent Jurisdiction
- Grave Disability
- Who Serves As Conservator
- Placement Options
- Psychotropic Medication
- Pre-Conservatorship Services
- Courtroom Environment
- Preparing for Adulthood

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## THE LANTERMAN-PETRIS- SHORT ACT

“LPS Act”

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## LANTERMAN-PETRIS-SHORT (LPS) ACT

- WIC §5000 et seq
- Operative 7/1/69
- Completely revised the law of civil commitment in California
- Created a structure of increasing lengths of holds/commitments and concomitant legal rights

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## Legislative Intent of LPS Act WIC §5001

- “To end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, and to eliminate legal disabilities.”
- “To provide prompt evaluation and treatment of persons with mental health disorders or impaired by chronic alcoholism.”

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## Legislative Intent of LPS Act WIC §5001

- “To guarantee and protect public safety.”
- “To safeguard individual rights through judicial review.”
- “To provide individualized treatment, supervision, and placement services by a conservatorship program for persons who are gravely disabled.”

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## LPS Act Holds

- WIC §5150 – 72 hour hold (DTS, DTO, GD)
  - For minors, the 72 hour detention is governed by the Children’s Civil Commitment and Mental Health Treatment Act of 1988 [WIC § § 5585-5585.59]
  - After this initial hold, the LPS Act governs the evaluation and treatment of minors [WIC § §5585.20, 5585.53, 5585.55]

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## Children's Civil Commitment Act

- WIC §5585 – multi-disciplinary analysis
- WIC §5585.55 – under 16 not to be held with adults
- WIC §5558.57 – involve parent/legal guardian and develop after-care plan

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## LPS Act Holds

- WIC §5250 – 14 day hold (DTS, DTO, GD)
- WIC §5260 – additional 14 day hold (DTS)
- WIC §5270 – 30 day hold (GD)
- WIC §5300 – 180 day hold [renewable] (DTO)

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## LPS CONSERVATORSHIP

- Temporary Conservatorship [WIC §5352.1]
  - 30 days – 6 months
- “Permanent” Conservatorship [WIC §5350]
  - 1 year
  - Renewable
  - Conservatee may request a rehearing once every 6 months [WIC §5364]

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## DUE PROCESS RIGHTS

- Writ of Habeas Corpus [WIC §5275, 5353] if patient is certified for 14 day or 30 day hold or detained under a temporary conservatorship
- Probable Cause Hearing [WIC §5275] must be held within the first four days\* of the first 14 day hold, the 30 day hold, or the Temporary Conservatorship

\*unless “bypass writ” requested [WIC §5270.15]

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## DUE PROCESS RIGHTS

- Court trials & jury trials are available for those who seek release from a WIC § 5300 (180 days) Post-Certification hold [WIC §5303] or a “Permanent” (1 year) conservatorship [WIC §§5350, 5362]
- Rehearings [WIC §5364] are available to conservatees regarding the issue of grave disability, and powers/disabilities imposed

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## LPS Act Referral for Conservatorship

- Criteria to Initiate Referral
  - Must be a resident of the county prior to admission [WIC §5352]
- Referral comes from a Designated Facility
  - “When the professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment determines that a person in his care is gravely disabled as a result of a mental disorder, and is unwilling to accept, or incapable of accepting treatment voluntarily, he may recommend conservatorship to the officer providing conservatorship investigation of the county of residence prior to his admission as a patient in such facility.” [WIC § 5352]

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## LPS Act

### Referral for Conservatorship

- Must have a Qualifying Diagnosis

The most common mental health disorders considered as a qualifying diagnosis:

- Schizophrenia
- Bipolar Disorder (Manic Depression)
- Schizoaffective Disorder
- Clinical Depression

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## LPS Act

### Referral for Conservatorship

- Multi page application form in Los Angeles County.
- Signed by the treating psychiatrist and “professional person in charge” of the designated facility.
- Only the Public Guardian, can investigate the need for an LPS conservatorship and file the petition = County Conservatorship Investigator.

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## Role of the Public Guardian

- The Public Guardian is the designated County Conservatorship Investigator for LPS conservatorships. WIC § 5351
  - Only entity that can initiate an LPS conservatorship
  - Public Guardian receives all LPS referrals

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## Role of the Public Guardian

- The Public Guardian functions as the conservator of the person and/or estate of individuals whom the court has determined are unable to provide for their own basic needs of food, clothing and shelter.
- Last Resort – no one else willing, able or appropriate to serve

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## Public Guardian Investigation

- The Office of the Public Guardian is designated by the Board of Supervisors as the County Conservatorship Investigator. When the Public Guardian receives a recommendation for conservatorship from the psychiatrist at a designated facility, he or she must investigate all available alternatives and recommend for or against conservatorship. [WIC § 5354]

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## Contents of Investigation Report

- The report must be comprehensive and should include information from the clinicians, other professionals involved in the patient's life (case worker, probation officer) and family, as well as information from the charts and records. A face to face interview is also required to complete the report.

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## CONCURRENT JURISDICTION

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- WIC § 357 – order for hold at psych facility, pre/post 300 petition
- WIC § 705 – refer per WIC § 6550 or Penal 4011.6, pre/post 602 petition

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## CONCURRENT JURISDICTION

- Penal 4011.6 – Court or person in charge of juvenile detention facility cause minor to be transferred to designated facility for 5150. Confidential report to court at end of each period of confinement P.C. §4011.6
- WIC § 6550 – Judicial commitments post adjudication 300/601/602
- LPS and NMD

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## JUDICIAL COMMITMENT

- Order minor taken to designated facility for 72 hour treatment and evaluation per WIC § 5150. [WIC §6551]
  - LPS holds available
- Voluntary Commitment – WIC § 6552

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## JUDICIAL COMMITMENT

- IST minors per WIC §709
  - Consideration of civil commitment as alternative to juvenile hall confinement
  - Non-remediable – court may refer for evaluation
    - WIC §5300 -180 day hold (DTO)
    - WIC §6550 – 72 hour evaluation and possible LPS holds
- Suspension of proceedings [WIC §6551; CRC 5.645(b)(2)]

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## CONFIDENTIALITY OF JUVENILE COURT RECORDS

Judicial Officer, public guardian, attorneys handling LPS Conservatorship case involving a minor are not entitled parties under WIC §§ 827 or 827.10.

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## Collaborative Efforts by County Counsel

- Provide notice of hearings to Office of County Counsel Dependency Division and Children's Law Center of California
- Contact / Collaboration With:
  - Department of Children and Family Services  
Children's Services Worker
  - Dependency Attorney

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## Collaborative Efforts by County Counsel

- Delinquency Attorney (if applicable)
- Minor's Treatment Team
- Regional Center
- Court Appointed Special Advocates (CASA)

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## Collaborative Efforts by Public Defender

- Minor's treatment team
- Dependency/Delinquency Attorneys
- County Counsel/Public Guardian
- DCFS Social Worker
- Probation Officer
- Minor's family
- Regional Center
- CASA

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## Collaborative Efforts by Facility

- Star View Adolescent Center (SVAC)
  - Description of SVAC
  - LA County conserved adolescents:
    - Average of 12 clients conserved/temporary conservatorship on a monthly basis
  - Out of County conserved adolescents:
    - Average of 8 clients conserved/temporary conservatorship on a monthly basis
  - Of a capacity of 60 total clients, 1/3 are conserved/temporary conservatorship

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## Collaborative Efforts by Facility

- Involvement with DCFS, DMH, probation and dependency court in regards to client's current status, improvements and discharge plans
- Discharge planning with social workers, CASA workers, dependency lawyers, lower level placements on admission
- Parent partner/therapist actively involves family members in treatment, coordinates and moderates visits

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## GRAVE DISABILITY

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## Grave Disability - Adults

- A person is gravely disabled if, as a result of a mental disorder, he or she is unable to provide for his or her basic personal needs for food, clothing or shelter.  
[WIC § 5008(h)(1)(A)]

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## Gravely Disabled Minor

- “Gravely disabled minor” means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing and shelter, even though provided to the minor by others. [WIC § 5585.25]
- But see *Conservatorship of the Person of M.B.* (Alameda County) – finding that WIC §5008(h)(1)(A) is applicable to minors.

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## Gravely Disabled Minor (cont.)

- Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior *do not, by themselves*, constitute a mental disorder. [WIC §5585.25]

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## Grave Disability Clinical Case Discussion

- Case of M.S.
  - Lack of conservatorship due to primarily self-harm behaviors
  - No other placement would accept client without a conservatorship
  - Severe incident of ligature at 20 years old, resulting in ICU admission

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## Grave Disability Clinical Case Discussion

- Case of A.B.
  - Out of county placement, severe aggression, self-harm and grave disability
  - County would not take conservatorship application for a minor
  - Discharged to Iowa, failed placement and returned to CA, living in a shelter
  - County now looking at conservatorship and potential return to SVAC

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## WHO SERVES AS CONSERVATOR?

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## Designation of Conservator

- If the conservatorship investigation results in a recommendation for conservatorship, the recommendation shall designate the most suitable person...to serve as conservator. WIC § 5355
- Recommending family members, in consultation with DCFS and the Dependency Attorney.

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## Temporary Conservator

- County Counsel files Ex Parte petition for temporary conservatorship – runs concurrent with the 30 day hold.
- Petition for Appointment of Conservator
- Powers given to the temporary conservator include powers of placement and treatment, except administration of psychotropic medications.
- Medication = Riese petition

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## Limited Powers of LPS Conservator for Minors

- Authorize Placement WIC §5358
- Psychotropic Medication WIC §5357/JV 220

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## Limited Powers of LPS Conservator for Minors

- “Department 95A was and is to be involved only in issues of psychiatric hospital placement and authorization of psychotropic medication while in a locked hospital setting pursuant to a conservatorship order. All other matters relating to the routine medical care, education and other needs of the minor are still to be decided by the juvenile court having jurisdiction over the minor.”
  - Judge Shabo Memo, Los Angeles County, 8/7/95
- DCFS continues to be the lead agency.

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## PLACEMENT OPTIONS

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## Placement Options

- **300 Youth under 18 – Dependents of Court**
  - Home with family
  - Foster families
  - STRTP (Short Term Residential Therapeutic Program)
  - Transitional shelter
  - Lateral level placement: Vista Del Mar, Out of state (Iowa, Arizona, Utah, Texas)

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## Placement Options

- **602 Youth under 18**
  - Youth at SVAC typically have 602 status as secondary (Dependency primary)
  - Return to Juvenile Hall via probation officer
  - Potential similar placements as 300 youth

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## Placement Options

- **Non-Minor Dependents**
  - IMD Placements (Institution for Mental Diseases)
    - Need conservatorship status
    - Psychotic disorder, non violent typically accepted
    - Difficulty with placement for violent clients or severe self-harm
  - DBT program at Metropolitan State Hospital
    - Clients with self-harm, need conservatorship
  - STRTP
  - Independent Living Program (16-21yo)

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## PSYCHOTROPIC MEDICATIONS

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## Psychotropic Meds

- WIC 369.5
  - In the dependency system, the judicial officer in the Dependency Court authorizes orders re: psychotropic medications for minors who are WIC 300 wards.

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## Psychotropic Meds

- WIC 739.5
  - If a minor is a WIC 601 or 602 ward and in foster care, the judicial officer in the juvenile court authorizes orders re: psychotropic medications.
- Medication Consent Forms
  - If a minor is on a conservatorship and the Public Guardian is the conservator, the Public Guardian will sign a Psychotropic Medication Consent Form (not to exceed six months) requested by the doctor and reviewed by the Juvenile Court Mental Health Services

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## PRE-CONSERVATORSHIP SERVICES

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## Pre-Conservatorship Services

- Voluntary Admission per WIC § 6552
- Katie A. Services
- Educational Placement

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## DISPARITIES AMONG COUNTIES

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## Disparities Amongst Counties

- SVAC accepts clients from 15 different counties across California
  - From San Diego to Siskiyou County
- Wide variety of how conservatorships are handled
- Some counties will not initiate the process in court
- Others will only send clients already conserved in their county
- Various counties have become more open to the process in last few years due to few options for placement for certain youth

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## COURTROOM ENVIRONMENT

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## Courtroom Environment

- Minors should be separated from Adults if possible
  - Minors should be given priority in the courtroom
  - Minors should be encouraged to exercise their right to a closed hearing
- Minors may need alternative arrangements for the hearing
  - In-person hearings at the facilities
  - Video hearings at the facilities
    - Consider if AWOL risk

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## PREPARING YOUTH WITH MENTAL ILLNESS FOR ADULTHOOD

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## Preparing Youth with Mental Illness for Adulthood

- Multiple groups that discuss diagnosis and symptomatology, medication/treatment
- Involvement of family members in treatment
  - Better understanding of the diagnosis, need for treatment, follow-up care
- Take them to obtain legal documents (SS card, CA ID, birth certificate)
- Teach life skills, take into community, money management, shopping, doctor appointments

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