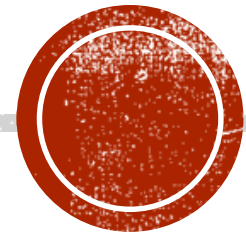


ASSISTED OUTPATIENT TREATMENT (AOT)

“LAURA’S LAW” Community Presentation 11/6/19
Solano County Behavioral Health



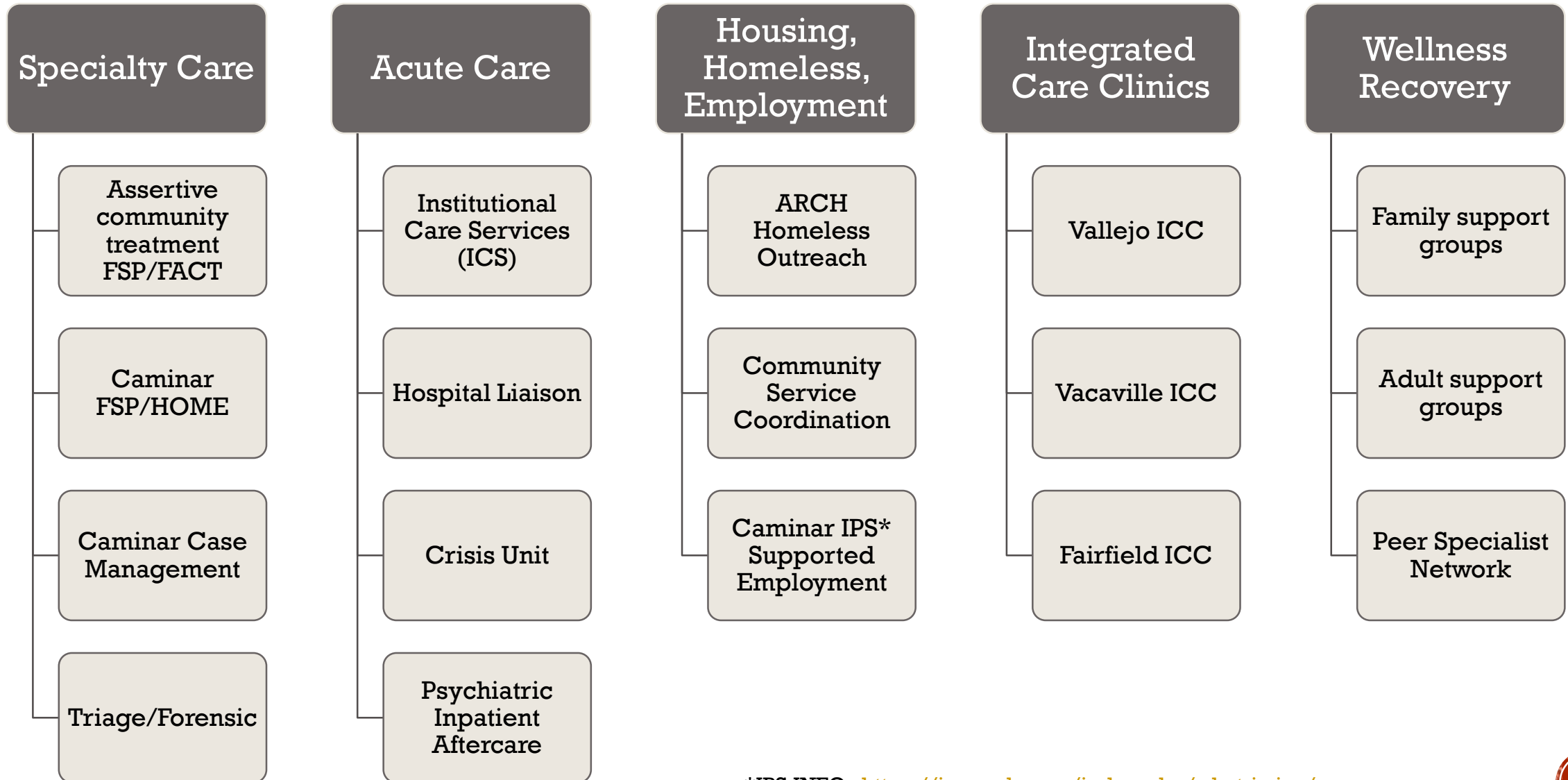
HOW IT ALL FITS IN



- Solano BH has been in the process of updating the variety of teams, services, programs along a continuum of care:
 - High intensity services- hospitals, full service partnerships (FSP), triage
 - Medium intensity services- comprehensive case management (CCM)
 - Lower intensity services- clinic outpatient, peer support
- A new Triage Team was developed to quickly respond to court-involved/forensic referrals along with crisis triage support to ensure people can get assessed and linked to programs more rapidly
 - **This is where AOT/Laura's Law is "triaged"**
- FSP shift to the ACT model- our previous Vallejo FSP/Fairfield FACT teams (full service partnership/forensic assertive community treatment) merged into one team- using ACT- *assertive community treatment** evidence based model
- The following chart illustrates how the various programs collaborate to help people transitions to the least restrictive settings



SOLANO BH TEAMS/SERVICE PROGRAMS- ADULTS



*IPS INFO: <https://ipsworks.org/index.php/what-is-ips/>



TRIAGE TEAM STRUCTURE

Helping determine who needs what for high intensity need and justice involved adult clients:

New:

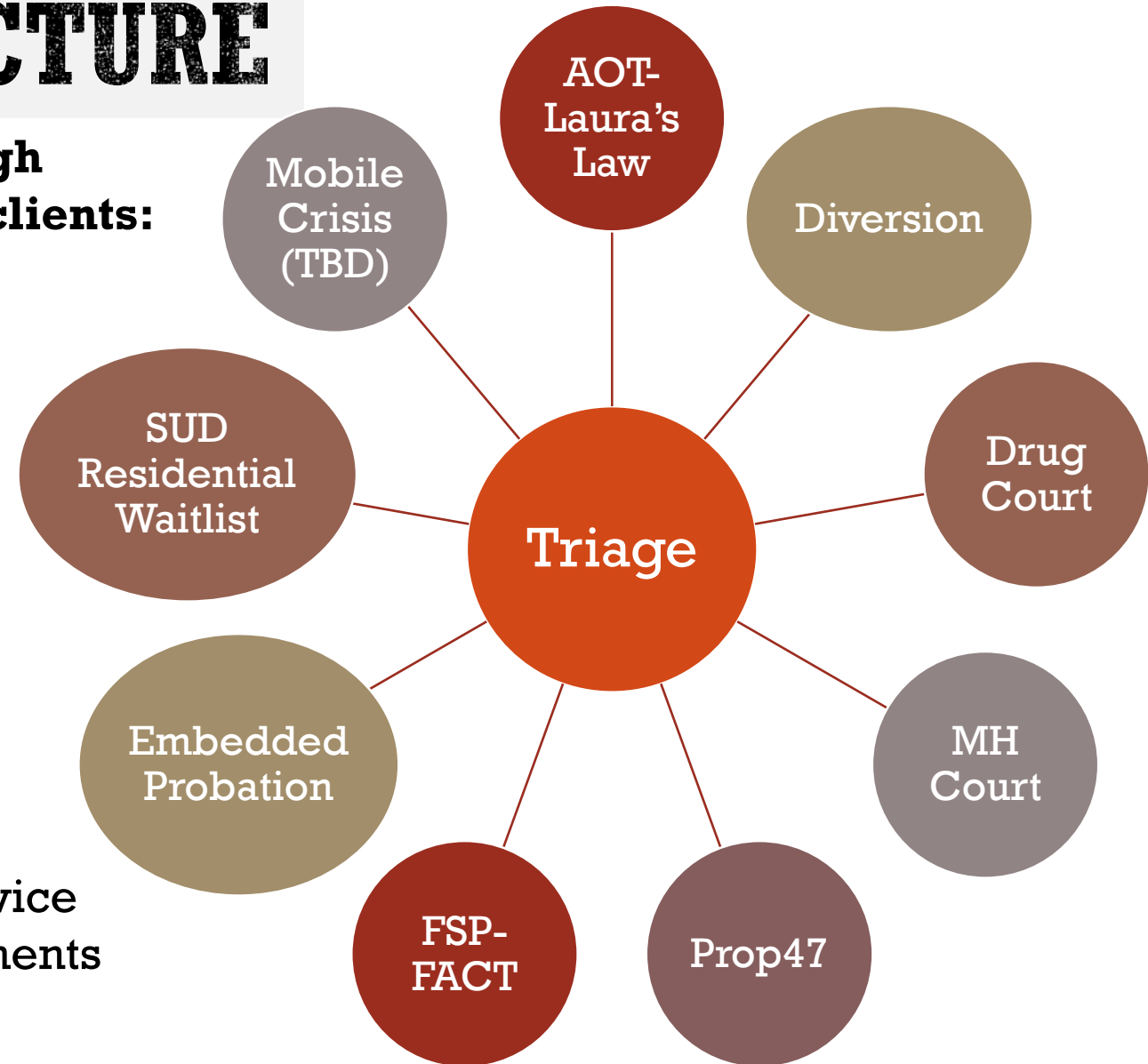
1. Diversion + Justice Assistance Grant
2. MH Court
3. AOT/Laura's Law

Ongoing:

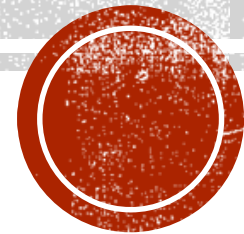
4. Embedded Probation
5. Drug Court
6. SUD Residential Waitlist
7. Prop47
8. Assertive Community Treatment- Full Service Partnership/Forensic (FSP/FACT) Assessments

Future:

9. Mobile Crisis oversight through contractor



AOT INTRO



AOT/LAURA'S LAW ORIGINATION:

- Legislation created after Laura Wilcox, a Nevada County college student who was murdered by a mentally ill man in 2001 while she was working as a receptionist at a mental health outpatient clinic.
- Creates an assisted outpatient treatment program for person's suffering from a mental disorder who meet certain criteria.
- Intended to address those mentally ill persons who are living in the community untreated.
- Findings have shown that AOT reduces rates of acts of violence, re-hospitalization and re-incarceration.
- Sunsets on January 1, 2022 unless extended by legislature. WIC 5349.5



WHAT IS AOT?

- AOT is a civil legal procedure that can be requested by concerned family members, caregivers, and other qualified referral sources for people who may be too ill to recognize the need for services.
- Eligible persons can receive court ordered intensive outpatient treatment in the community.
- Goal is to improve access and adherence to services at the lowest level of care necessary in order to prevent further deterioration that can result from untreated serious mental illness.



CRITERIA:

- An **adult** (18 or older) may be ordered to obtain AOT services if the court finds all of the following (WIC 5346(a)):
 - Person suffers from a **mental illness** as defined in WIC 5600.3(b)(2) and (3);
 - There has been a clinical determination that the person is **unlikely to survive safely** in the community without supervision;
 - The person has a **history** of lack of compliance with treatment, as shown by one of the following:
 - At least 2 mental health hospitalizations within the past 36 months, not including any period of hospitalization that immediately preceded the filing of the petition. These need to either be in a hospital or “receipt of services in a forensic or other mental health unit: in a state or local correctional facility; or
 - One or more acts of serious or violent behavior toward self or others, or threats to cause serious physical harm, within the past 48 months, not including during any hospitalization or incarceration that immediately preceded the filing of the petition.



CRITERIA CONTINUED:

- The person has **been offered** a treatment plan and failed to engage in treatment;
- The person's condition is **substantially deteriorating**;
- The person **would benefit** from outpatient treatment;
- Outpatient treatment is **necessary to prevent** the person from becoming gravely disabled or a threat to self or others; and
- Outpatient treatment is the **least restrictive alternative**.



MENTAL ILLNESS DEFINED WIC

5600.3(B)(2):

- **WIC 5600.3(b)(2):**
- **“serious mental disorder” means a mental disorder that is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, bipolar disorder, post-traumatic stress disorder, as well as major affective disorders or other severely disabling mental disorders. This section shall not be construed to exclude persons with a serious mental disorder and a diagnosis of substance abuse, developmental disability, or other physical or mental disorder.**
- **Not substance abuse, developmental disorder or acquired traumatic brain injury**



MENTAL ILLNESS WIC 5600.3(B)(3)

- Members of this target population shall meet all of the following criteria:
 - (A) The person has a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a substance use disorder or developmental disorder or acquired traumatic brain injury pursuant to subdivision (a) of Section 4354 unless that person also has a serious mental disorder as defined in paragraph(2).
 - (B) (i) As a result of the mental disorder, the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms.
 - (ii) For the purposes of this part, “functional impairment” means being substantially impaired as the result of a mental disorder in independent living, social relationships, vocational skills, or physical condition.
 - (C) As a result of a mental functional impairment and circumstances, the person is likely to become so disabled as to require public assistance, services, or entitlements.



INITIATED BY:

- An AOT petition is triggered by a **request** made to the county mental health department by (WIC 5346(b)(2)):
 - An adult who resides with the person;
 - A parent, spouse, sibling or adult child of the person;
 - A director of any public or private agency, treatment facility, licensed residential care facility (ie B&C), or hospital in which the person is a resident or patient;
 - A licensed mental health treatment provider who is treating or supervising the treatment of the person; or
 - A peace officer or parole or probation officer assigned to supervise the person.



INVESTIGATION AND FILING:

- Upon receiving the request, the county behavioral health director shall **conduct an investigation** assessing if client meets criteria.
- The county behavioral health director shall file a petition only if there is a **reasonable likelihood** that the elements can be proven by clear and convincing evidence. WIC 5346(b)(3).
- The petition is filed by the director or designee in the Superior Court of the county where the person is “present or reasonably believed to be present.” WIC 5346(b)(1)



PETITION:

- A petition must include (WIC 5346(b)(4)):
 - Facts that support the petitioner's belief that the person meets **each of the required criteria** under WIC 5346(a);
 - A statement that the person is present or believed to be present within the county; and
 - An advisement that the person has a right to counsel.



SUPPORTING AFFIDAVIT:

- The petition must be accompanied by an affidavit of a licensed mental health treatment provider designated by the behavioral health director. The affidavit must state (WIC 53469b)(5):
 - That the treatment provider personally examined the person within 10 days prior to the filing of the petition; the reasons the person meets criteria under WIC 5346(a); that AOT is recommended; and that the treatment provider is willing to testify at the hearing; or
 - That with 10 days before the filing of the petition, the treatment provider made attempts to examine the person and was not successful in persuading the person to submit to an examination; and the treatment provider has reason to believe that person meets the criteria under WIC5346(a) and is willing to examine the person and testify at the hearing.



PATIENTS RIGHTS:

- Each patient has the right to be represented by counsel if the person requests it, the court shall appoint the Public Defender or other attorney. The patient shall pay for legal services, if able. WIC 5346(c), (d)(4).
- Patients also have the right to:
 - adequate notice;
 - a copy of the pleadings,;
 - judicial review by habeas corpus;
 - to be present at any hearing;
 - to present evidence;
 - to examine witnesses; and,
 - to appeal
 - WIC 5346(d)(4)



WRITTEN TREATMENT PLAN:

- Prior to the hearing the doctor recommending AOT must submit to the court a written treatment plan that includes the services required by WIC 5348. WIC 5348(e). The outpatient treatment program's services must include all of the following:
 - Mental health teams with no more than 10-1 patient-to-staff ratio. WIC5348(a)(1). Staff must include persons with varied cultural and language skills.
 - A service delivery plan. The plan must, in consultation with law enforcement and community partners, determine how many persons are to be served. The plan must provide what is called "full service" or "wrap-around service": medications, therapy, housing assistance, and vocational assistance. WIC 5348(1)(2).
 - Outreach services to families with mentally ill adult, the public, doctors, and anyone who comes in contact with persons with untreated mental illness. WIC 5348(a)(2).
 - Special services for the handicapped, older adults, homeless young adults, and women, especially those with diverse cultural backgrounds. WIC 5348(1)(2).
 - Each patient shall have a specific mental health services coordinator. WIC5348(a)(3).



TREATMENT PLAN GOAL:

- To allow the patient to live in the most independent, least restrictive setting;
- To work;
- To maintain family and friends;
- To have access to education and training;
- To self-manage his or her mental illness;
- To have access to health care;
- To reduce criminal or antisocial behavior; and
- To reduce symptoms of the patient's mental illness
- WIC 5348(a)(4)



TREATMENT PLAN:

- Intensive case management providing mental health treatment, medication monitoring, access to primary health care, and substance abuse counseling
- Assistance in applying for and obtaining benefits such as SSI and food stamps
- Help finding supportive housing
- Vocational rehabilitation
- Peer mentoring and support
- Collaboration with and support for families
- Designated mental health personal services coordinator



HEARING:

- Court must schedule hearing with 5 court days.
- Continuance only with good cause.
- Good cause:
 - Need for further examination of the person, balanced against the need to expeditiously provide outpatient treatment. WIC 5346(d).

TESTIMONY SHALL BE TAKEN. The petition cannot be granted unless a treatment professional who has personally examined the person within 10 days before the petition testifies. WIC 5346(d)(2)



REFUSED EXAMINATION:

- If person refused to be examined, the court may request that the patient submit to an examination by a doctor appointed by the court. WIC5346(d)(3).
- If the person still does not consent to the examination, and the court finds “reasonable cause” to believe the petition is true, the court can order any person authorized to detain someone under WIC 5150 to take the person to a designated facility for examination. Detention for that purpose may not exceed 72 hours. The examining doctor may be the doctor who wrote the affidavit that accompanied the petition or another doctor; if another doctor he or she may consult with the doctor who wrote the affidavit. WIC 5346 (d)(3).



HEARING TESTIMONY:

- If person is present at the hearing, the court may examine the person “in or out of court”. Presumably may take sworn testimony or unsworn statements in chambers or otherwise. WIC 5346 (d)(1).
- If person fails to attend the hearing, and appropriate attempts to obtain his or her presence have failed, the court may hold the hearing in the person’s absence.
 - Court must state the factual basis for proceeding in the person’s absence. WIC 5346(d)(1)
 - If an order for AOT is made after hearing where person not present, the person may immediately challenge that order by writ of habeas corpus
 - No treatment may commence until the writ is resolved.
 - WIC 5346(j)



STANDARD OF PROOF:

- **Clear and convincing evidence**
- **WIC 5346(a)**
- **Evidence must be highly and substantially more probable true than not**



ORDER:

- If court finds does meet AOT criteria, it may issue an order that the person undergo AOT for up to 6 months.
- Court may only order the categories of treatment specified in the written treatment plan as recommended by the examining doctor.
- If patient has executed an advance healthcare directive, those directions shall be considered.
- If court finds **does not** meet AOT criteria, petition dismissed. WIC 5346(d)(5)(A).
- WIC 5346(d)(5)(B).



FINDINGS IN ORDER:

- Order must state that the court finds, in consultation with the behavioral health director or designee, all of the following:
 - The **services** are available from the county or an approved provider for the duration of the order;
 - That the **criteria** required under WIC 5346(a) have been met; and
 - That the **treatment plan** will be delivered to the director or designee.
 - WIC 5346(e)



INVOLUNTARY MEDICATION:

- The right to refuse psychotropic medication remains unaffected by Laura's Law.
- Failure to comply can result in referral for a 72 hour evaluation. Such evaluation does not change the threshold for initial involuntary commitment or subsequent extensions.
- Thus, involuntary medication cannot be part of a treatment plan absent a separate order by the court after a hearing conducted under WIC 5325-5337 (a Reise hearing) WIC 5346(c)
 - A client's capacity to refuse antipsychotic medication must be determined at a noticed "capacity hearing" during a detention under 5150, 5250, 5260 or 5270.15.



PROGRESS REPORTS/HEARINGS:

- At not less than 60 day intervals, the director of the program shall file an affidavit with the court affirming that the patient continues to meet the criteria under WIC 5346(h).
- Patient is entitled to a hearing on this issue, with the director bearing the burden of proof. WIC 5346(h).



REMEDIES FOR NONCOMPLIANCE:

- If patient refuses to comply with treatment program ordered by the court, the court can apply gradual remedies:
 - Order the patient to meet with his or her treatment team. WIC 5346(d)(6);
 - If that meeting fails to achieve compliance, and in the opinion of a treatment provider the patient may need involuntary hospitalization, the provider may request that the patient be detained in a hospital for up to 72 hours to determine if the person needs treatment. WIC 5150
 - The evaluation can lead to release or to a longer detention under WIC 5250 and potentially conservatorship.
 - WIC 5346(f)

Failure to comply with treatment program alone cannot be the basis for civil commitment or a finding of contempt. WIC 5346(f).



RENEWAL:

- If the Program Director believes that the patient requires an additional outpatient treatment, the director can apply to the court for an additional period of up to 180 days of outpatient treatment.
- The petition must be filed before the expiration of the first 6 months of treatment, and is subject to the same procedures as the initial petition.
- WIC 5346(g)



VOLUNTARY SERVICES BY SETTLEMENT:

- Any person who has been found by the court to require outpatient services may enter into an agreement to receive services voluntarily. WIC 5347(a).
- After an AOT petition is filed, but before the conclusion of the hearing on the matter, the patient and county may enter into a settlement agreement.
 - Can only occur if a licensed mental health treatment provider agrees that the patient can survive safely in the community WIC 5347(b)(1).
 - Must be in writing
 - Must be approved by the court
 - Cannot have a duration of more than 180 days
 - Must include a treatment plan
 - Same legal effect as if court made an order under WIC 5346.
 - WIC 5347(b)(5)



MODIFICATIONS/VIOLATIONS:

- Either party can request that the court modify the settlement plan during the 180 days. WIC 5347(b)(3)
- Court shall designate a county department to monitor compliance with the settlement.
- If patient fails to comply, department shall notify county counsel and the public defender. WIC 5347(b)(4)
- The court shall set a hearing on the matter
- At hearing, the department's written statement of noncompliance is prima facie evidence
- Burden shifts to patient to prove by preponderance of the evidence that a violation did not occur. WIC 5347(b)(6)
 - Greater than 50% chance the claim is true



CLIENT PERSISTENTLY NON-COMPLIANT:

- Laura's Law is not specific about this.
- Client remains subject to court order, with continued treatment and intervention
- Sudden deterioration may warrant welfare check and civil involuntary holds(5150), including an LPS conservatorship



AOT INFO:

Contacts

Dana Vaughn

Deputy County Counsel

Dvaughn@solanocounty.com

707-784-3018

Mark Mautner, LMFT

Triage Team Supervisor

mcmautner@solanocounty.com

How to Obtain the Forms

- Visit the Solano County website- find “Behavioral Health Services”:
 - <http://solanocounty.com/depts/mhs/aot.asp>
- Fill out the referral form and email to AOTMH@solanocounty.com
- If you have any questions, please call BH Admin at 707-784-8320

