

Laura's Law individuals may be served in programs that already exist. Counties cannot discriminate against Laura's Law individuals by denying them equal access to already planned and funded MHSAs programs.

The California Code of Regulations is clear:

9 CA § 3400. Allowable Costs and Expenditures.¹
CALIFORNIA CODE OF REGULATIONS

...(b) Programs and/or services provided with MHSAs funds shall...

(2) Be designed for voluntary participation. No person shall be denied access based solely on his/her voluntary or involuntary legal status.

MHSA and AB1421,² SB585³, Darrell Steinberg,⁴ Rusty Selix,⁵ DMH⁶ and practice in Nevada County⁷ all acknowledge that LL recipients may be served in existing programs.

Implications: Counties that choose to implement services to help LL recipients may. But counties cannot fail to implement Laura's Law by claiming new funding and planning are needed. Counties can implement Laura's Law by giving equal access to existing programs. Further, failing to implement Laura's Law, or allow individuals equal access to existing programs may violate ADA prohibiting discrimination based on disability.

¹ <https://govt.westlaw.com/calregs/Document/I75B47B70D45311DEB97CF67CD0B99467>

² See detailed analysis, "MHSA may fund Laura's Law": <http://mentalillnesspolicy.org/states/california/ok2usemhsa4ll.pdf>

³ SB 585 as passed added the following language to 5813(f): " When included in county plans pursuant to Section 5847, [MHSA] funds may be used for the provision of mental health services under Sections 5347 and 5348 in counties that elect to participate in the Assisted Outpatient Treatment Demonstration Project Act of 2002 (Article 9 (commencing with Section 5345) of Chapter 2 of Part 1)." See <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=05001-06000&file=5813-5815>.

⁴ MHSA author Darrell Steinberg: "Sen. Darrell Steinberg, D-Sacramento, said there is nothing in the measure passed by California voters in November 2004 that prohibits its use on Laura's Law cases. I'm very clear that it can be...The services are available to everyone who meets the definition of serious mental illness." ("Care, not Excuses", San Francisco Chronicle, February 21, 2008. Page B6.)

⁵ MHSA co-author, Rusty Selix: "Once someone is enrolled in an AB 2034 [Adult System of Care] program there is funding for their services and this could also include court assisted outpatient orders" ("From Fail-First to Help-First: Proposition 63 Transforms California's Mental Health System", February 3, 2005.)

⁶ Steve Mayberg, former State Director of Mental Health: "MHSA will fund Full Service Partnership programs that are primarily voluntary in nature. But someone who is a conservatee, an AB 1421 [Laura's Law] program member, a referral from juvenile or criminal justice, etc. should not be denied access to those services. (CA DMH General Stakeholders Meeting Combined Meeting Summary June 1, 2005.)

⁷ In Nevada County, the provisioning of services is voluntary and takes place within existing programs that are "designed for voluntary participation". The services originate with voluntary providers. Individuals are co-mingled with non-AOT clients and there are many more non-AOT clients than AOT clients. Individuals have choices during the entire time they are enrolled in AOT including to take or not to take medications that may be prescribed, to participate in groups or not, to see a therapist or CADAC counselor or not, and to discuss what they are willing to do as part of the process. There are no security guards in the facility, no use of restraints, no seclusion, no locks and no forced medication. They are not handcuffed in the courtroom and taken to jail for a "violation of the treatment plan" as is the process in Mental Health Court when expectations are not met. There is no violation of the treatment plan in AOT due to the nature of "no-fail services". AOT services are "not dependent on the progress or adherence with treatment expectations, but rather by individual needs and pace set by the individual in partnership with the team".⁷ Whether individuals show up or not is their choice. They can get up and walk out at any time. The client is not in any way compelled by providers to do anything. Most of the individuals in the programs are voluntary patients. Safeguards are written into the implementation plan, and due process is protected by the court.