SB 1045: CONSERVATORSHIP
A FAULTY APPROACH TO THE HOMELESSNESS CRISIS

This law allows the counties of San Francisco, Los Angeles, and San Diego to create a 5-year pilot program to expand conservatorship, a legal process through which an individual loses the right to make decisions about their housing, finances, and medical care.

The bill targets homeless people with severe mental illness and substance addictions. While claiming to be a solution to chronic homelessness, this bill provides no funding for housing or mental health treatment.

“Conservatorship is the most extreme deprivation of civil liberties aside from the death penalty.”
—Susan Mizner, Director, Disability Rights Program, ACLU

SB 1045 is the wrong approach to house homeless people with mental illness or substance abuse problems. Housing and services should be offered voluntarily in an unrestrictive setting where people are comfortable and able to exercise autonomy and receive community support.

Some reasons why community groups oppose SB 1045:
- It will lead to people losing the ability to make decisions about what happens to their body, their pet, where they live, what they eat, how they spend their time and their money.
- It gives the police an incentive to detain people under 5150 holds.
- It expands involuntary treatment, while there are thousands of people waiting for voluntary treatment and housing that doesn’t exist.
- This bill will not make a dent in the number of homeless people suffering on the streets in San Francisco.
The Lanterman-Petris-Short Act allows for the creation of conservatorships for people whose mental illness prevents them from accessing food, clothing, or housing.

In San Francisco, Laura’s Law allows for court-mandated outpatient treatment for people with severe mental illness. It is unclear who is being targeted by SB 1045 who is not already eligible for these conservatorships.

About 65% of SF conservatees are living in placements outside of the city due to the lack of housing and psychiatric treatment beds. Expanding conservatorship during this housing crisis will push more people out of the city.

“There is no point to more aggressive intervention if there is no place to house and treat the people who need help. Nothing in this bill expands services or creates more housing, or medical or mental health care, which is what the real problem is.”

DISABILITY RIGHTS CA, 5/9/2018

In San Francisco, there is consensus that homelessness has reached the level of a crisis:

- There are 1,060 individuals on the city’s single adult Shelter Reservation Waitlist and 8,000 households on the waitlist for public housing.
- Most recent data shows that there are 500 people on the waitlist for methadone and substance abuse residential treatment.
- Many individuals with mental illnesses self-medicate with drugs and alcohol while experiencing the trauma of being without a home; this leads to addiction disorders.
- A 2018 behavioral health audit found that 38% of people discharged from psychiatric emergency were not offered any continuing services, essentially sending them back to the streets.
- According to the Budget Legislative Analyst Office, we are spending $20.6 million on criminalizing homeless people without any positive outcomes. That money is equivalent to the cost of 1,300 housing subsidies.

“It’s difficult if not impossible to recover from mental illness or substance abuse when you don’t have a home. If everyone had housing, we would see a major drop in the number of people in mental health crisis who are the targets for conservatorship.”

-- Jennifer Friedenbach, Executive Director,
Coalition on Homelessness
SB 1045: Frequently Asked Questions

What is the current conservatorship process?
Police (typically) determine you are danger to self or others, or “gravely disabled,” and take you to locked Psych Emergency, under what is called a 5150. Psychiatrists determine if indeed you are harm to self/others/gravely disabled during an up to 72 hour hold. After a hearing, they may hold you for another 14 days. At this point the state may file for conservatorship, and a court determines if an individual should be conserved. If so, the person loses all civil liberties and can make no decisions for themselves. The state takes over control of the person’s health care, finances, and where they live. People can be conserved in locked facilities or other sites. The majority of SF residents who are conserved are placed in facilities outside San Francisco, away from their community.

What is SB 1045?
This law (authored by State Senator Scott Wiener) allows the counties of San Francisco, Los Angeles, and San Diego to create a 5-year pilot program to expand conservatorship. SB 1045 moves away from the “grave disability” standard for conservatorship and allows conservatorship for individuals who have 8 or more 5150 holds in a 12-month period and a dual diagnosis of serious mental illness and substance use disorder. The bill targets homeless people with severe mental illness and substance addictions— in fact, it was originally called “Homeless Conservatorship” and written only to apply to homeless people. While claiming to be a solution to chronic homelessness, this bill provides no funding for housing or mental health treatment. **SB 1045 would take away the rights of people with mental health disabilities and substance abuse WITHOUT providing voluntary services.**

How is San Francisco planning to implement SB 1045? Is it legal?
Before implementation, the city is required to find that it has enough housing and services for everyone who could be conserved under SB 1045 and that implementation will not take away housing or services from anyone who is seeking them voluntarily. As long as there are waitlists for housing and services in SF, there is no legal way to implement this law here.

What’s wrong with this approach?
- **Loss of Civil Liberties:** This plan means that people will lose the ability to make decisions about what happens to their body, their pet, where they live, what they eat, how they spend their time and their money, without a determination that there is a safety risk to themselves or others. It is inhumane to take away people’s rights without first offering needed services, reminiscent of the “ugly laws” that SF and other cities passed in the late 1800s, saying that it was illegal to be seen on the street with a visible disability, though people could not access jobs or other income.
- **Expanded Police Response and Unfair Detentions:** It gives the police an incentive to detain people under 5150 holds and confiscate property. Each 5150 is traumatic and does not help a person move to recovery. Plus, people with untreated mental health conditions are 16 times more likely to be killed in police encounters.
- **Police as Decision Makers instead of Health Professionals:** It moves the decision to the officer on the street who decides to 5150 someone repeatedly instead of the medical determination of a psychiatrist.
- **Displacing Other Needy People:** It expands involuntary treatment, while there are thousands of people waiting for voluntary treatment and housing that doesn’t exist.
- **Little Impact:** This bill does not expand services and the programs are all filled up, so there will be nowhere for folks to go.
• *Expensive and Ineffective:* Forced treatment is shown to be less effective—and far more expensive—than voluntary. People do better when they have the agency to make decisions to seek treatment.

**What is the real problem?**
People have not had a chance to get services voluntarily. Thousands of people are waiting for voluntary treatment and housing that doesn’t exist. Services must also be provided together; for example, someone completing residential drug treatment must be offered permanent supportive housing to allow them a chance to stay off drugs.

**How many people in San Francisco will be affected by SB 1045?**
Nobody knows exactly. The Department of Public Health has identified 55 people who have had eight or more 5150s in the last two years, plus 48 people with at least six 5150s. However, the latest City estimate is that fewer than ten people will be eligible.

**Does San Francisco have the resources to expand conservatorship?**
No. There have been $40 million in budget cuts in mental health services since 2008 in the city. A 2018 Behavioral Health Audit found that 38% of people discharged from psychiatric emergency at SF General were not connected with any follow-up services. For every one person getting intensive case management, two others are in need and turned away.

**Won’t SB 1045 get homeless people off the streets?**
No. Offering housing, along with substance use and mental health services, gets people off the streets. This bill will not make a dent in the number of homeless people suffering on the streets of San Francisco as it does not provide additional resources to meet their needs—the programs are all filled up.

**What alternatives are there for making sure people get their needs met?**
Divestment from community mental health care and lack of housing for impoverished people are the true cause of what we see on our streets today. Until we rebuild our system, we must mend the fractured system. Instead of sending people through a complicated and dehumanizing process, the city should simply authorize placements from a placement authority within DPH who could ensure needed care and placements. The solution to homelessness is permanent housing that is safe, dignified, and includes needed supports. The City needs more intensive case management that meets with people once a day wherever they are living and builds relationships based on trust in order to get people into housing and services. We need community mental health clinics and 24-hour drop-in centers so that people have more options than going to the ER.

**Who Opposes SB 1045**
Dozens of service providers, community organizations, consumers, disability rights groups and more.

**What can I do?**
1) Call your supervisor and Mayor Breed and tell them that you oppose this expansion of conservatorship in San Francisco. Find your supervisors at https://sfbos.org/ or call the Mayor at (415) 554-6141.
2) Join the Voluntary Services First Coalition. Email raia@sdaction.org or call (415) 546-1333.

**For more information on the issue, plus reports and news articles, please go to** [http://bit.ly/SDA_SBP1045](http://bit.ly/SDA_SBP1045)
Don’t ‘lock them up’
By Allen Cooper

During the last presidential elections cries of “lock her up” energized the crowds. Have our city supervisors taken a page from that book by yelling “lock the homeless up?”

The California legislature passed a law that would allow San Francisco, to institute a new type of conservatorship. Supervisor Mandelman with the encouragement of Mayor Breed has proposed legislation to implement this.

When someone is conserved they lose all civil rights and a court appointee has authority to make all decisions for them. The new law states that an individual who is seriously mentally ill, has a substance use disorder and has been brought to a hospital for competency evaluation (5150) eight times in one year can be taken to court by the Sheriff, the head of a hospital, or the head of the Department of Health for a conservatorship hearing to determine if they can care for themselves.

The law requires that housing, mental health and substance abuse treatment as well as other services be made available to them. In general, these are homeless people who are considered nuisances by the police and residents of the neighborhoods where they stay. It has been estimated that currently 55 individuals meet, and about 48 more may soon meet, the requirements for a hearing. This has the appeal of allowing the City to say it is doing something about bothersome homeless people.

This is a bad idea for many reasons. The people in question have already been found to be able to care for themselves on eight evaluations, thus it ignores the opinion of medical professionals and puts the decision in the hand of lay bureaucrats. Further, when these people get housing, treatment, and other services, they will go to the head of long waiting lists for these services, thus pushing out the elderly, disabled and pregnant as well as other high priority unhoused who are waiting for these services.

Past experience suggests the forced treatment approach is not likely to be successful in rehabilitating the conserved individuals. Many of these seriously mentally ill people have had drug treatment in the past and have failed. In fact, 30 percent of the seriously mentally ill are drug resistant and will never respond. Putting these people in the hospital and trying to medicate them will probably lead to expensive hospitalizations.
Forced treatment for substance use has been tried for many years but evidence that it leads to long term success is lacking. It tends to lead to reduced substance use while a person is in the program with relapse when they are discharged. The best one group studying this could say is that it is probably better than nothing. This is a contrast to those who enter treatment voluntarily, where there is reasonable rate of long-term success. Eventually many of these people may end up being conserved and housed out of the city at a cost of about $160,000 per year, or in even more expensive chronic psychiatric hospital beds.

Is there an alternative? A coalition of groups and individuals with expertise and experience in this area have suggested “voluntary services first.”

This would require intensive case management to encourage the people to enter supportive housing and encourage voluntarily entrance to treatment. This will require trained case managers who will see their patients on an almost daily basis to establish a relationship and coax them into supportive housing where they can manage them over the long term. Let’s try it before we end up depriving these unfortunate people of their civil rights. Call your supervisor and tell them don’t “lock them up.”

Allen Cooper, M.D. is a professor of medicine emeritus at Stanford University who worked for Healthright360 at the Treasure Island Job Corps and the Height Ashbury Free clinic after retirement. He has treated numerous patients with alcohol and drug use problems, as well as mental illness and homelessness.