Date of Hearing: August 28, 2023

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Buffy Wicks, Chair
SB 326 (Eggman) – As Amended August 23, 2023

SENATE VOTE: Not relevant.

SUBJECT: The Behavioral Health Services Act

SUMMARY: Recasts the Mental Health Services Act (MHSA) as the Behavioral Health Services Act (BHSA) and modifies local and state spending priorities under the BHSA, including requiring 30% of all local BHSA funds to be spent on housing interventions, as specified; eliminating allocations for local mental health prevention-based programs and recasting other local spending categories; and adding a state-level population-based prevention and stigma reduction program and statewide workforce program. Allows BHSA funding to be used to provide services to individuals with substance use disorders (SUD) regardless of whether they have additional mental health diagnoses or needs. Requires counties to more comprehensively plan and report on behavioral health services (BHS), sources of funding, and outcomes, and requires the state to establish outcome metrics for BHS and programs. Authorizes the Department of Health Care Services (DHCS) to enforce county compliance with BHSA planning, spending, and data reporting requirements through a variety of mechanisms, including requiring changes to BHSA spending plans, imposition of monetary sanctions or temporary withholds, and imposition of corrective action plans, as specified. Makes most changes subject to voter approval on the March 5, 2024, primary election ballot. Contains an urgency clause to ensure this bill takes effect immediately upon enactment. Specifically, **this bill**:

NOTE: THIS SUMMARY ONLY INCLUDES PROVISISON OF THE BILL THAT ARE GERMANE TO THE HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE. PLEASE REVIEW THE ASSEMBLY HEALTH ANALYSIS FOR ANALYSIS OF THE ENTIRE BILL.

1) Requires counties to use funds distributed from the Behavioral Health Services (BHS) Fund as follows:

   a) Requires 30% of funds distributed to the counties to be used for housing interventions programs, as defined. Allocates these funds as follows:

      i) Fifty percent to be used for persons who are chronically homeless, with a focus on those in encampments;

      ii) No more than 25% may be used for capital development projects;

      iii) Permits, commencing with the 2026-29 Fiscal year's county integrated plan, and ongoing thereafter, for counties with a population of less than 200,000, DHCS to establish criteria and a process for approving county requests for an exemption from a) i) above that considers factors including a county's homeless population, the number of individuals receiving Medi-Cal specialty BHS or SUD treatment services in another county, and other factors as determined by DHCS; and,

iv) Permits, commencing with the 2032-2035 FYs' county integrated plan, and ongoing thereafter, DHCS to establish criteria and a process for approving requests for an exemption under a) i) above that considers factors set out in (iii) above regardless of the population size of the county;

b) Requires 35% of the funds to be distributed to counties for Full Service Partnerships (FSPs), as defined:

i) Permits, commencing with the 2032-2035 FYs' county integrated plan, and ongoing thereafter, DHCS to establish criteria and a process for approving requests for an exemption from ii) above that considers factors such as county population, client counts, and other factors as determined by DHCS; and,

ii) Provides that housing interventions provided to individuals enrolled in FSPs are to be funded under a) i) above;

c) Requires 35% of the funds to be distributed to counties for the following Behavioral Health Supports and Services (BHSS):

i) Services designated under the Children's MHSA (CMHSA) system of care and Adult and Older Adult Mental Health (AOAA) System of Care Act, excluding those services specified a) and b) above;

ii) Early intervention programs, as specified;

iii) Outreach and engagement;

iv) Workforce education and training;

v) Capital facilities and technological needs;

vi) Innovative BH pilots and projects;

vii) A prudent reserve;

viii) Requires a county to use at least 51% of BHSS funding for early intervention programs;

ix) Requires a county to use at least 51% of the county's funding allocated for early intervention programs to serve individuals who are 25 years of age and younger; and,

x) Requires a county to comply with other funding allocations specified by DHCS for the purposes of i) through iv) above.

d) Permits a county to pilot and test innovative BH models of care programs or innovative promising practices for housing interventions, FSPs, and BHSS:

i) Specifies the goal of these innovative pilots and innovative promising practices is to build the evidence base for the effectiveness of new statewide strategies.

e) The programs established above for housing interventions, FSPs, BHSS and innovative programs are to include services to address the needs of transition age youth, 16 to 25 years of age, and transition age foster youth;

f) Specifies that a county is only obligated to fund the programs established in housing intervention, FSPs, BHSS and innovative programs inclusive with the funds it receives from the BHS.

Housing Interventions:

1) Requires each county that receives BHSA funding to establish and administer a program for housing interventions to serve persons who are chronically homeless, experiencing homelessness, or at risk of homelessness and meet one of the following conditions:

   a) Children or youth, as defined;

   b) Adults or older individuals, as defined; or

   c) Persons with a substance use disorder, as defined.

2) Provides that housing interventions are not limited to those individuals enrolled in FSPs, as defined.

3) Provides that housing interventions are not limited to individuals enrolled in Med-Cal.

4) Provides that county programs for housing interventions may include all of the following:

   a) Rental subsidies;

   b) Operating subsidies;

   c) Shared housing;

   d) Family housing for children and children, as specified;

   e) The nonfederal share for transitional rent;

   f) Other housing supports, as defined by DHCS, including but not limited to those listed in the Community Supports Policy Guide; and

   g) Capital development projects.

5) Provides that county programs may include capital development projects to construct or rehabilitate housing units for persons experiencing homelessness who meet the criteria of 1) above, consistent with guidelines developed by DHCS.

6) Requires capital development projects to be available within a reasonable time frame as specified by DHCS and subject to cost-per-unit as specified by DHCS.

7) Provides that to the extent that necessary federal approvals have been obtained for the Medi-Cal program to cover housing interventions and federal financial participation is available and not otherwise jeopardized, the housing interventions funds may be used for the nonfederal share of Medi-Cal covered housing related services. Provides that the housing intervention funds shall only cover the costs that cannot be paid for with Medi-Cal program funds, including costs for Medi-Cal members enrolled in a Medi-Cal managed care plan, as defined, that does not cover those services.

8) Prohibits the use of housing intervention funds for housing interventions covered by a Medi-Cal managed care plan, as defined.

9) Requires DHCS to implement any changes to this Act through specified procedures, adopt regulations as needed, enter into contracts or amend contracts as specified.

Streamlining for capital development projects funded by the BHSA:

1) Provides that a capital development project that receives funding under BHSA is a use by right that is subject to a streamlined, ministerial review process if all of the following criteria are met:

    a) It is located in a zone where multifamily residential use, office, retail, or parking are a principally permitted use;

    b) At least 75% of the perimeter of the site adjoins parcels that are developed with urban uses, as specified;

    c) It is not located on one of the following sensitive environmental sites:

        i) Prime farmland or farmland of statewide importance, as defined;

        ii) Wetlands, as defined;

        iii) Within a very high fire hazard severity zone, as defined;

        iv) A hazardous waste site, as defined;

        v) Within a delineated earthquake fault zone, as defined;

        vi) Within a special flood hazard area, as defined;

        vii) Within a regulatory floodway as deformed by the Federal Emergency Management Agency, as defined;

        viii) Lands identified for conservation in an adopted natural community conservation plan, as defined;

        ix) Habitat for protected species, as defined; or

x) Lands under conservation easement.

d) It is not on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use, as specified;

i) Defines "dedicated to industrial use" to mean any of the following:

I) The square footage is currently being used as an industrial use;

II) The most recently permitted use of the square footage is an industrial use; or

III) The site was designated for industrial use in the latest version of a local government's general plan adopted before January 1, 2022.

e) The development meets the following objective zoning standards, objective subdivision standards, and objective design review standards:

i) The applicable objective standards shall be those for the zone that allows residential use at a greater density between the following:

I) The existing zoning designation for the parcel if existing zoning allows multifamily residential use; and

II) The zoning designation for the closest parcel that allows residential use at a density deemed appropriate to accommodate housing for lower income households in that jurisdiction, as specified in paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code.

ii) The applicable objective standards shall be those in effect at the time that the development application is submitted to the local government.

f) No housing units were acquired by eminent domain;

g) The housing units will be in decent, safe, and sanitary condition at the time of their occupancy;

h) The project pays prevailing wage, meets specified enforcement standards, and provides health care; and

i) The project provides housing for individuals who meet the criteria specified:

a) Children or youth, as defined;

b) Adults or older individuals, as defined; or

c) Persons with a substance use disorder, as defined.

d) Long-term covenants and restrictions require the housing units to be restricted to persons who meet the criteria specified in a) for no fewer than 30 years.

2) Provides that a development proposed pursuant to this section shall be eligible for the same density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios applicable to a project that meets the criteria specified in subparagraph (G) of paragraph (1) of subdivision (b) of Section 65915 of the Government Code.

3) Requires a local government that determines a development is consistent with the objective planning standards specified in this article to approve the development.

4) Requires a local government that determines a development that is submitted through this ministerial process is in conflict with any of the objective planning standards, as specified, to provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:

   a) Within 60 days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units;

   b) Within 90 days of submittal of the development proposal to the local government if the development contains more than 150 housing units; and

   c) Provides that if the local government fails to provide the required documentation pursuant to subparagraph 4), the development shall be deemed to satisfy the required objective planning standards.

5) Provides that a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

6) Provides that a development is not in conflict with the objective planning standards solely on the basis that application materials are not included, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

7) Provides that the determination of whether a proposed project submitted pursuant to this section is or is not in conflict with the objective planning standards is not a "project" as defined in Section 21065 of the Public Resources Code.

8) Provides that design review of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for design review. That design review shall be objective and be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government, and shall be

broadly applicable to developments within the jurisdiction. That design review shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

a) Within 90 days of submittal of the development proposal to the local government pursuant to this section if the development contains 150 or fewer housing units; and

b) Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.

9) Provides that CEQA shall not apply to actions taken by the Department of Housing and Community Development, DHCS, or a local agency not acting as the lead agency to provide financial assistance or insurance for the development and construction of projects built pursuant to this section.

10) Requires an applicant to file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152 of the Public Resources Code.

EXISTING LAW:

1) Defines “chronically homeless” to mean an individual or family that:

a) Is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

b) Has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least one year or on at least four separate occasions in the last three years; and

c) Has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of two or more of those conditions; or

d) A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph a) prior to entering that facility. (Section 11360 of Title 42 of the United States Code)

MHSA

1) Establishes the MHSA, enacted by voters in 2004 as Proposition 63, to provide funds to counties to expand services, develop innovative programs, and integrated service plans for

mentally ill children, adults, and seniors through a 1% income tax on personal income above $1 million.

2) Establishes the Mental Health Services Oversight and Accountability Commission (MHSOAC) to oversee the implementation of MHSA, made up of 16 members appointed by the Governor, and the Legislature, as specified. (Welfare and Institutions Code (WIC) § 5845 through § 5846)

3) Permits amendments to the MHSA by a two-thirds vote of both houses of the Legislature and only as long as the amendment is consistent with and furthers the intent of the MHSA. Permits provisions clarifying the procedures and terms of the MHSA to be amended by majority vote. (Section 18 of the MHSA)

4) Requires a county to calculate an amount it establishes as the prudent reserve for its Local Mental Health Services Fund, not to exceed 33% of the average community services and support revenue received for the fund in the preceding five years. (WIC § 5892 b)(2))

5) Requires each county mental health department to prepare and submit a three-year plan to DHCS that must be updated each year and approved by DHCS after review and comment by the MHSOAC. Requires development of the three-year plans to include a community stakeholder process and include a list of all programs for which MHSA funding is being requested and that identifies how the funds will be spent and which populations will be served. (WIC §5847 and § 5848)

No Place Like Home (NPLH)

6) Establishes the NPLH program, which authorizes the California Department of Housing and Community Development (HCD) to implement the program by adopting regulations, guidelines and administering a competitive grant program to make awards to counties for the purpose of financing capital costs of permanent supportive housing for a target population as specified. (WIC Section 5849.1 *et seq.*)

7) Authorizes the California Health Facilities Financing Authority to issue taxable or tax-exempt bonds in an amount not to exceed $2 billion dollars for the purpose of financing permanent supportive housing pursuant to the NPLH program and to use bond proceeds as specified. (Government Code Section 15463)

BH System of Care

8) Establishes the BMA in 1992-93 that governs the operation and financing of community mental health services for individuals diagnosed with mental illnesses in every county through locally administered and controlled community mental health programs. (WIC § 5600 *et seq.*)

9) Enacts the 1999 Realignment that transferred several programs and responsibilities from the state to counties, changing the way state and county costs are shared for certain social services programs, transfers health and mental health service responsibilities and costs to the

counties, and increases the sale tax and vehicle license fee and dedicates these increased revenues to the new financial obligations of counties for realigned programs and responsibilities.

10) Enacts the 2011 Realignment that shifted the responsibility and funding for a series of major programs from the state to the local government with the most significant policy change being the shift of responsibility for adult offenders and parolees from the state to the counties. The 2011 Realignment also allocated a portion of the state's sales and use tax and vehicle license fee revenues to counties to administer child welfare and foster care programs.

11) Establishes the Adult and Older Adult Mental Health System of Care Act (AOAA) for adults and older adults with SMI to assist adults and older adults achieve their optimal level of self-sufficiency and independence by providing mental health services, substance abuse treatment, and in-home supportive services. Provides for the protection of older and dependent adults through investigations, case management, and the conservatorship process as necessary. (WIC § 5800 *et seq.*)

12) Requires DHCS to establish service standards within the AOAA that ensure members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. (WIC § 5806)

13) Establishes the CMHSA to provide a comprehensive, interagency system of care for the delivery of mental health services to seriously emotionally and behaviorally disturbed children and their families. (WIC § 5851, *et seq.*)

14) Establishes the Mental Health Student Services Act as a mental health partnership grant program between county mental health or BH departments and school districts, charter schools, and the county office of education within the county. (WIC § 5886 *et seq.*)

DHCS and Medi-Cal

15) Establishes the Medi-Cal Program, a state-federal program administered by DHCS, to provide comprehensive health benefits to low-income individuals who meet specified eligibility criteria, under which federal financial participation is available to fund covered services to eligible individuals. (WIC § 14000 *et seq.*)

16) Establishes a schedule of benefits under the Medi-Cal program, which includes federally required and optional Medicaid benefits. (WIC § 14132)

17) Includes mental health and substance use services in the essential health benefits package established under state law as Medi-Cal benefits. (WIC § 14132.03)

18) Requires DHCS to implement mental health managed care through contracts with mental health plans. Requires DHCS to contract with a county or counties acting jointly for the delivery of SMHS to each county's eligible Medi-Cal beneficiary population. Requires mental health plans to bear the financial risk for the cost of providing medically necessary SMHS to Medi-Cal beneficiaries and establishes related requirements. (WIC § 14700 *et seq.*)

19) Requires each county to be responsible for providing or arranging for the provision of SMHS to Medi-Cal beneficiaries in their county. Defines SMHS to mean the impact of the

beneficiary's condition is severe enough to require the services of a specialist as opposed to a generalist in the field of mental health. (WIC § 14705)

20) Requires Medi-Cal managed care (MCMC) plans to provide mental health benefits covered in the state's Medicaid state plan, excluding those benefits provided by county mental health plans under the SMHS Waiver. (WIC § 14189)

21) Requires DHCS to require any mental health plan that provides Medi-Cal SMHS to enter into a memorandum of understanding with any MCMC plan that provides Medi-Cal health services to some of the same Medi-Cal recipients served by the mental health plan. (WIC § 14715)

22) Establishes CalAIM, and requires the implementation of DHCS's CalAIM initiative to support the following goals:

    a) Identify and manage the risk and needs of Medi-Cal beneficiaries through whole-person-care approaches and addressing social determinants of health;

    b) Transition and transform the Medi-Cal program to a more consistent and seamless system by reducing complexity and increasing flexibility; and,

    c) Improve quality outcomes, reduce health disparities, and drive delivery system transformation and innovation through value-based initiatives, modernization of systems, and payment reform. (WIC § 14184.100)

23) Establishes a CalAIM term of January 1, 2022, to December 31, 2026, inclusive, and any extensions. (WIC § 14184.101)

SUDs and SUD Treatment Services

24) Establishes the DMC program that provides medically necessary SUD treatment services to eligible Medi-Cal beneficiaries for specific, approved services. Permits DHCS to enter into contracts with each county, or enter into contracts directly with certified medication-assisted treatment providers, for the provision of various alcohol and drug use treatment services, including SUD services. (HSC 14021.30 *et seq.*)

25) Grants DHCS the sole authority in state government to administer, license, certify, and regulate all SUD functions and programs. (HSC §11750, *et seq*.)

26) Defines SUD Treatment Services to include harm reduction, treatment, and recovery services, including federal Food and Drug Administration approved medications. (WIC § 5891.5)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, **"**In nearly twenty years since its original passage by the voters, the Mental Health Services Act has been a lifeline to individuals, families, and critical programs throughout California. The Act has allowed for significant build out of

community-based services and provided early intervention and an emphasis on doing 'whatever it takes.' Like any policy, it's time to review where the Act has succeeded and where it can be improved, given so much has changed in our health care system, our understanding of behavioral health and substance use, and evolving needs in our communities. SB 326 would ask the voters to approve significant updates to the Act, including how funds are used, prioritization of certain at-risk populations, enhanced outcome measures and accountability, and will be paired with a bond proposal to create additional community-based based mental health treatment facilities. It's time for us to build on the successes of the past, with all we've learned since its original passage and the new landscape in mental health care in California, to create a Behavioral Health Services Act that meets the needs of 2023 and beyond."

Background: This bill and AB 531 (Irwin) make up Governor Newsom's proposal to modernize California's behavioral health system. The proposal is aimed at addressing critical gaps in the continuum of care for the most vulnerable Californians, include new funding for housing, residential health care settings and the behavioral health (BH) workforce, refining the MHSA to stretch limited dollars, and meeting the needs of those with the most severe mental health and/or debilitating substance use conditions and finally to strengthen county accountability and statewide access to BHS.

The Governor's proposal consists of three key elements:

a) Authorization of a $4.7 billion general obligation bond, contained in AB 531 (Irwin), to fund 10,000 new residential treatment and housing settings through unlocked community BH residential settings; permanent supportive housing for people experiencing or at risk of homelessness who have BH conditions; and housing for veterans experiencing or at risk of homelessness who have BH conditions;

b) Modernization of the MHSA and creation of the BHSA; and,

c) Improved statewide accountability, transparency, and access to BHS.

The MHSA currently funds 30% of the state's mental health system, but has not undergone full scale reform since its initial passing in 2004. The passage of the Affordable Care Act and parity laws have altered the BH landscape and this proposal is aimed at modernizing the MHSA to account for expanded coverage under Medi-Cal. This bill proposes a comprehensive set of reforms, many of which will require approval by the voters on the March 2024 Ballot. Key proposed reforms include:

a) Rename the MHSA to the BHSA;

b) Broaden the target population to include those with debilitating SUDs;

c) Focus on the most vulnerable and most at-risk;

d) Update Local Categorical Funding Allocations;

e) Allocate 4% of total BHSA funds for state directed initiatives to address Population-Based Prevention Programs;

f) Allocate 3% of total BHSA funds for state directed initiatives to expand the BH workforce, including braiding $36 million with the California Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment (BH-CONNECT) for workforce investments of $480 million annually and $2.4 billion total for the five-year demonstration period (pending federal approval);

g) Transform the county MHSA planning process through the IPBHSO; and,

h) Improve transparency and accountability for BH funding and outcomes.

The major housing provisions include:

Revise funding priorities in MHSA: MHSA requires counties to spend funds on Community Services (CSS), which support a broad range of direct service provision (such as outpatient treatment). About 20% of CSS funding can be used for capital facilities, technological needs, workforce, education and training, and deposits for counties' prudent reserves. While not required by MHSA, state regulations currently require counties to use 50% of CSS funding for FSPs. FSPs provide mental health and wraparound services—such as housing and employment support—for individuals with the greatest mental health needs. Nineteen percent of MHSA funding for counties must be used on Prevention and Early Intervention (PEI) activities, which are aimed at preventing mental illnesses before they become severe. The remaining 5% is directed to innovation programs, with the goal of encouraging counties to experiment with new approaches to treating and preventing mental illness.

Under the Governor's proposal, the focus of the funding allocations would be shifted toward both FSPs (as a statutory requirement) and housing. Counties would be required to spend 35% of funding on FSP programs. In addition, under the Governor's proposal, 30% of MHSA county funding would be used on housing intervention programs for the provision of housing or infrastructure funding to create new housing. Housing intervention services provided to FSP participants would be counted under this category.

Housing interventions: Under the BHSA, a county is required to use 30% of total BHSA revenues to fund housing interventions. Fifty percent of these funds are to be used for housing interventions for persons who are chronically homeless, with a focus on those living in encampments. No more than 25% may be used for capital development projects, as specified.

Counties will establish and administer a program for housing interventions including rental subsidies, operating subsidies, shared housing, family housing for children and youth who meet the specified criteria, the nonfederal share for transitional rent, and other housing supports. Counties could fund community supports that are covered under CalAIM and are included in Community Supports Policy Guide published by DHCS. Community supports include housing related costs in three categories: Housing Transition Navigation Services; Housing Deposits; and Housing Tenancy and Sustaining Services (defined further below).

County programs for housing intervention will not be limited to individuals enrolled in FSPs or those enrolled in Medi-Cal. Funds cannot be used for the housing interventions covered by a MCMC plan. Counties can use fund for capital development to construct or rehabilitate housing units for specified individuals with BH challenges, provided funds are spent within a

reasonable time period. DHCS will adopt guidelines that specify the amount of time counties have to spend down dollars for capital development.

Streamlining BHSA funded capital development projects: The BHSA allows counties to use housing intervention funds for capital developments. Capital developments are not defined but could include supportive housing, unlocked community-based residential facilities for individuals transitioning out of homelessness. If a capital development is funded in whole or in part by BHSA, it would be a use by right that is subject to a streamlined, ministerial review process. To qualify, a development would need to meet specified criteria, including: be located on a site zoned for multi-family or mixed use, not be located on a sensitive environmental site, and the developer would be required to comply with labor standards including paying workers a prevailing wage and providing health care. This process is similar to existing statutory by right provisions, including SB 35 (Wiener), Chapter 366, Statutes of 2017 and AB 2011 (Wicks), Chapter 647, Statutes of 2022.

Homelessness in California**:** Over 173,000 individuals in California experience homelessness on any given night, based on the most recent annual point in time (PIT) count conducted in January 2022. This is largely considered an undercount of the actual number of people experiencing homelessness because it does not consider those that are couch-surfing or temporarily housed in non-traditional shelters. Of those individuals, over 115,000 are unsheltered, meaning they live on the streets, sleep in cars, camp in parks, or are otherwise staying in places not meant for human habitation. California accounted for 30% of the country's homeless population in 2022, despite the state making up less than 12% of the nation’s total population. In addition, California is home to 50% of the country's unsheltered people. Significant racial disproportionality exists among those experiencing homelessness. People who identify as Black/African American are overrepresented in California's population of people experiencing homelessness. According to the 2022 PIT count, 30% of the homeless population are Black/African American, while only comprising 6% of the state’s overall population. In addition, based on the 2022 PIT count, California has 10,395 veterans experiencing homelessness, and 7,392 are unsheltered. California has 31% of the total homelessness veteran population in the country.

Based on the 2022 PIT count, 60,905 people in the state are chronically homeless and of those 45,132 are unsheltered. An individual is considered chronically homeless if they have a disability as defined under federal law; are living in a place not meant for human habitation, safe haven or an emergency shelter; and have been homeless for at least 12 months or on at least four separate occasions in the last three years. In addition, an individual who has been residing in an institutional care facility, including jail, substance abuse or mental health treatment facility, hospital, or another similar facility, for fewer than 90 days and met all of the criteria previously stated is also considered chronically homeless.

The causes and duration of homelessness are varied. According to the 2022 PIT Count, 23% (39,700) of the 171,500 people experiencing homelessness in California suffered from severe mental illness and 21% (36,000) suffered from a chronic SUD. There is likely overlap between these two populations, the degree to which is unknown. Although some individuals struggle with substance abuse or mental illness, a growing group of people fall into homelessness due to a mismatch between wages and housing costs. One in three households in the state does not earn enough money to meet their basic needs. Over 89% of extremely low-income renter households are rent-burdened and over 64% of lower-income households are rent-burdened currently.

According to the Statewide Housing Plan, to meet California's unmet housing needs, the state needs an additional 2.5 million housing units, including 1.2 million for lower-income households. Decades of underbuilding have led to a lack of housing overall, particularly housing that is affordable to lower-income households. The state needs an additional 180,000 new units of housing a year to keep up with demand – including about 80,000 units of housing affordable to lower-income households. By contrast, production in the past decade has been under 100,000 units per year – including less than 20,000 units of affordable housing.

In the last seven years, the state has taken major steps to increase the supply of housing by requiring local governments to plan and zone for 2.5 million new housing units, holding local governments accountable for approving housing, and streamlining both affordable housing and mixed-income housing. Despite increased financial investments from the state and some local governments, communities face a basic inflow/outflow challenge: as people experiencing homelessness are successfully housed, more individuals fall into homelessness. In San Diego last year, for every 10 homeless people who found housing, 13 more became homeless; in 2018 in Los Angeles County, for every 133 individuals moved into housing, another 150 became homeless each day.

California Statewide Study of People Experiencing Homelessness: In June 2023, the University of California-San Francisco, Benioff Homelessness and Housing Initiative released a study of homelessness in the United States since the mid-1990s. The study provides a comprehensive look at the causes and consequences of homelessness in California and recommends policy changes to shape programs in response. Researchers interviewed adults experiencing homelessness in eight regions of the state, representing urban, rural, and suburban areas. Among other findings, the study found individuals with certain vulnerabilities, those with a history of trauma, and/or those from racially minoritized groups are at higher risk of experiencing homelessness.

The study found that for most of the participants, the cost of housing had simply become unsustainable. Participants reported a median monthly household income of $960 in the six months prior to their homelessness, and most believed that either rental subsidies or one-time financial help would have prevented their homelessness. Participants of the study also had experienced multiple forms of trauma throughout their life, increasing their vulnerability to homelessness and contributing to their mental health and substance use challenges. Two-thirds reported current mental health symptoms and more than a third experienced physical or sexual violence during this episode of homelessness. More than a third had visited an emergency department in the prior six months.

People who experience homelessness have higher rates of mental health conditions and substance use than the general population. For many, these problems predated their first episode of homelessness. One in five who used substances reported that they wanted substance use treatment – but couldn't get it. The majority (82%) reported a period in their life where they experienced a serious mental health condition. More than one quarter (27%) had been hospitalized for a mental health condition; 56% of these hospitalizations occurred prior to the first instance of homelessness. Nearly two thirds (65%) reported having had a period in their life in which they regularly used illicit drugs. Almost two thirds (62%) reported having had a period in their life with heavy drinking (defined as drinking at least three times a week to get drunk, or

heavy intermittent drinking). More than half (57%) who ever had regular use of illicit drugs or regular heavy alcohol use had ever received treatment.

Housing First: Decades of research demonstrate that evidence-based approaches like supportive housing – affordable housing coupled with wrap-around services – resolves homelessness for most individuals. In addition, the state has a policy of Housing First, which is an approach that prioritizes providing permanent housing to people experiencing homelessness, thus ending their homelessness and serving as a platform from which they can pursue personal goals and improve their quality of life. Over more than a decade, dozens of studies conducted across the country demonstrate that the costs of delivering supportive housing using a Housing First model are offset in large part by reductions in the use of crisis services, including shelters, jails, ambulances, and hospitals. Many state and local programs effectively utilize these evidence-based approaches to address homelessness; however, the number of people falling into homelessness continues to overwhelm the response system and surpasses the affordable housing stock in many communities. These factors lead to persistently high rates of homelessness despite recent state and local investments. Other strategies, such as rental assistance and help with identifying and securing housing (housing navigation) can also help with those individuals who need prevention tools to avoid homelessness.

Despite the overwhelming data and evidence that Housing First works to end homelessness, there is a growing national movement to roll back Housing First policies. This short-sighted and misleading push fails to recognize that Housing First is not the root cause of continued increases in homelessness; rather, it is the lack of affordable housing for lower income households. The federal government recently reasserted its commitment to Housing First in "All In: the Federal Strategic Plan to End Homelessness" and emphasized the need to focus on data-driven solutions like permanent housing linked to wrap-around services that end homelessness.

In 2018, the state required all programs that serve people experiencing homelessness to comply with Housing First. Any new program, including any created by this bill, is required to comply with Housing First.

MHSA and Housing: MHSA does not require counties to spend funding on housing. Housing costs and supports are an eligible use under community supports and innovation programs. SB 326 would require 30 percent of MHSA funding to be used for housing interventions. The proposal also requires that 50 percent of the funds in this category be used on housing interventions for individuals who are chronically homeless.

According to the LAO, estimating the amount of MHSA funding that currently goes toward housing interventions is difficult because housing is not explicitly captured in current reporting. LAO estimates county innovation program spending in 2021-22 was $91 million, and that housing would be a small portion of that amount. Using estimates from 2021-22 program estimates of $2.1 billion in revenues, LAO estimates that counties would need to spend $626 million on the housing interventions under the Governor's proposal.

The Legislature prioritized MHSA funding for development of permanent supportive housing through the No Place Like Home (NPLH) program. The NPLH Act of 2018 (Proposition 2) authorized $2 billion in bonds to construct new, and rehabilitate existing, permanent supportive housing for people who need mental health services and are experiencing homelessness or are at risk of homelessness. The housing support provided through NPLH is paired with mental health services. Counties were required to commit 20 years of funding for the supportive services for

supportive housing developments funded by NPLH. All bond funding has been allocated as of August 2022. The bonds will be repaid over time using MHSA funds. NPLH has supported 247 projects and 7,852 housing units are anticipated. As of August 2022, 119 projects are under construction, 30 projects have been completed, and 498 units have units have been completed and are occupied.

***CalAIM and Housing-Related Community Supports*:** CalAIM is a collection of major initiatives spearheaded by DHCS that align with the administration's program improvement goals, including addressing social drivers of health, reducing program complexity and increasing flexibility, and modernizing payment structures to promote better outcomes.

One component of CalAIM that addresses social drivers of health is called Community Supports. Community Supports are services that can be provided by MCMC plans as cost-effective alternatives to traditional medical services or settings. Fourteen Community Supports were approved through CalAIM, of which three are housing-related:

- Housing Transition Navigation Services: Help finding, applying for, and securing housing for members experiencing homelessness or at risk of homelessness;

- Housing Deposits: Assistance with housing security deposits, utilities set-up fees, first and last month's rent, and first month of utilities. Members can also receive funding for medically necessary items like air conditioners, heaters, and hospital beds to ensure their new homes are safe for move-in; and,

- Housing Tenancy and Sustaining Services: Support to maintain safe and stable tenancy once housing is secured, such as coordination with landlords to address issues, assistance with the annual housing recertification process, and linkage to community resources to prevent eviction.

Most MCMC plans are currently providing housing supports, and DHCS indicated earlier this month that housing supports are the most popular Community Supports offered, with more than 40% of MCMC members who received Community Supports using housing transition navigation services to help find, secure, and maintain housing. Housing tenancy and sustaining services, as well as housing deposits, are also currently being provided through managed care plans. Although CalAIM is federally approved only through December 31, 2026, the Administration has communicated its intent that Community Supports would eventually transition to become Medi-Cal benefits, without an expiration date.

AB 531 (Irwin): A companion bill to this proposal, AB 531 (Irwin) would authorize $4.68 billion to fund permanent supportive housing (PSH) for veterans and unlocked, residential treatment beds for people at risk of or experiencing homelessness. PSH and residential beds would be for people with BH challenges. The goal of the bond is to construct or rehabilitate up to 10,000 behavioral health beds in residential settings and housing units for veterans and other individuals experiencing or at risk of homelessness. Residential treatment beds funded by the bond could be streamlined using the new ministerial process in SB 326 – see below. PSH could also be streamlined using existing processes allowed under SB 35 (Wiener) or AB 2162 (Chiu).

Challenges for Permanent Supportive Housing: PSH offers long-term stable housing and services to support individuals and families who need ongoing assistance to maintain housing

stability and prepare to enter the job market, school, and other community activities. Decades of research show that supportive housing with a Housing First requirement ends homelessness among people who experience chronic homelessness. Supportive housing can lower public health costs, improve property values, and decreases recidivism in local jails and state prisons. For these reasons, the state has invested millions of dollars in leveraging federal and local dollars to create more supportive housing. To be successful, supportive housing requires ongoing funding to support services that help tenants maintain housing. Funding for supportive services comes from numerous sources, including county MHSA allocations, federal grants managed by local Continuums of Care, as well as philanthropic sources.

A recent Terner Center study states that proper funding for operating and services is necessary to ensure that supportive housing tenants do not fall back into homelessness. However, the study found that funding for both of these is insufficient. Properties with lower budgeted resources had higher rates of rent arrears and move-outs, increasing the risk of residents returning to homelessness, after accounting for the properties' locations. Between 2019 and 2022, the average annual per-unit cost for the sample of properties with PSH units was $17,000. The higher costs of supportive housing are a result of a need for more highly trained staff to provide supportive services and increased maintenance costs.

Streamlining for Housing Projects: To expedite the construction of housing, the Legislature has enacted several streamlining, by right processes for affordable housing and market rate housing with a percentage of affordable housing. These include:

- In 2017, SB 35 (Wiener) created a streamlined approval process for infill projects with two or more residential units in localities that have failed to produce sufficient housing to meet regional housing allocation numbers.

- AB 2011 (Wicks), Chapter 647, Statutes of 2022 required housing development projects to be a use by right on specified sites zoned for retail, office, or parking. To qualify for by right, a developer is required to pay prevailing wages for all construction workers on projects with 10 or more units, and with enforcement provisions. Additionally, in projects with over 50 units, all construction workers are entitled to healthcare benefits and paid prevailing wages. These larger projects also require all contactors to either participate in state approved apprenticeship programs or request the dispatch of apprentices. In other words, projects move forward if one trades apprenticeship programs cannot or will not dispatch apprentices.

- In addition, AB 2162 (Chiu) creates a by right approval process for developments that are 100% affordable to lower income households that restrict at least 20% of the units to supportive housing for people experiencing homelessness.

SB 326 would create a by right, streamlining process for capital developments that are wholly or in part funded by BHSA. Capital developments are not defined but likely would include PSH and voluntary, unlocked, community-based treatment and residential care settings. The capital development of both of these types of developments would be funded under AB 531 (Irwin), the $4.68 billion bond that is a companion to this bill.

Additional refinement to the language in the bill may be required to set parameters around how to determine the comparable zoning for residential facilities. The standards in the bill are based

on units per acre which is the standard for housing units, but residential facilities do not have a unit count.

Housing for Youth and Transition-Age Youth: The Governor's initial proposal shifted MHSA funding towards FSPs and housing interventions and away from other services, such as outpatient or crisis intervention services. According to the LAO, while there could have been an increase in MHSA funding for children and youth services within FSPs, there likely would have been a reduction in MHSA funding available for other children and youth services. Recent amendments address this issue by adding a statutory requirement for counties to spend 51% of early intervention funding and for the California Department of Public Health to spend 51% of population-based prevention services on individuals 25 years of age and younger. The amendments not only set a statutory minimum level of funding for children and youth mental health services, but also include, unlike the initial proposal, transition-age youth (individuals 16 to 25 years of age) in those services. As counties currently use MHSA funding for children and youth services within FSPs (which has no children and youth spending requirement) and it is unclear how many current children and youth services would be classified as early intervention, it is still unknown how the revised proposal would impact current county spending on children and youth services. However, the revised proposal provides greater certainty that counties would spend at least a minimum amount on children and youth services overall.

Advocates remain concerned that youth and transition age youth may still face a disadvantage for funding. They would like a set-aside for youth and transition age youth in the housing intervention program. They also point to the requirement that 50% of funds for housing interventions must go toward chronically homelessness individuals, with a focus on individuals living in encampments, as disadvantaging youth. Adults are more likely to meet the definition of chronically homeless. Youth are more likely to be living in cars or "couch surfing" and less likely to be living on the street or in encampments.

Arguments in Support: The California Big City Mayors coalition, representing the state's 13 largest cities, including Los Angeles, San Diego, San Jose, San Francisco, and Sacramento, state this bill will modernize the MHSA by providing ongoing funding for BH housing, expanding funding to cover drug treatment services, and prioritizing services for our most vulnerable unhoused Californians. Mayors of California's largest cities are on the frontlines of addressing California's homelessness crisis and are focused on reforms that ensure the necessary housing and services are developed to address the needs of unhoused individuals with severe mental illness and substance use disorders. This bill will transform the way BHS are delivered in California. Various other cities write that it is time to review where the MHSA has succeeded and whether it can be improved given so much has changed in our health care system, our understanding of BH and substance use, and evolving needs in our communities.

The United States Veterans Initiative Inglewood state that it is long overdue that we modernize our approach to serving our fellow Californians who are most in need of the mental health care they deserve - those with serious mental illnesses, experiencing or at risk of homelessness, and veterans who spend their nights on the streets.

A coalition of California's leading affordable housing, homelessness, and housing justice organizations, as well as local jurisdictions and local elected officials, write that this bill would advance a suite of needed interventions to make significant strides towards addressing our housing and homelessness crisis.

Safe Place for Youth seeks the following amendments: to allocate half of the newly proposed 5% prevention population-based activities and half of the Early Intervention funds within the newly proposed BHSS for children and youth; require counties to spend half of the allocation in the new 35% FSP category on programs for children and young people; re-consider the percentage set aside for Housing Interventions and allow for flexibility at the county level by requiring only a minimum percentage; hold stable the existing percentages related to funding for Children and Youth until the full impact of CalAIM and the CYBHI can be measured and determined to be effective; and, adopt the SMHS access criteria to ensure all children and youth with a BH treatment need can access the services to meet that need.

The California Association of Alcohol and Drug Program Executives, Inc. proposes an amendment to this bill and to the housing bond, that would prohibit any housing program receiving public funds from discriminating against, or denying access to housing or services to individuals because they are currently undergoing medications for addiction treatment.

Arguments in Opposition: Counties, as well as numerous stakeholders across the spectrum, express concern about the mandatory reallocation of mental health funding to housing services, expressing the current inadequacy of mental health resources to address increasing demand. Stakeholders further argue the carve-out of 30% of revenues in each county to fund housing unfairly pits critical services and populations against each other in a competition for limited resources, and makes the BHSA less responsive to other community mental health priorities. Many stakeholders request reducing or eliminating the allocation to housing, and/or including supportive services to a broader population as allowable spending in the housing category.

Significant concerns have also been expressed by a number of stakeholders about a perceived narrow definition of what qualifies as a "housing intervention." The original BHSA proposal limited housing interventions to a small subset of ongoing housing costs, including rent and operating revenues, as well as other services defined by DHCS. The administration has indicated its intention was to include a broad range of housing support services in this definition, and the August 15 amendments clarify that housing supports include, but are not limited to those in the "Community Supports Policy Guide." This guide (Medi-Cal Community Supports, or In Lieu of Services, Policy Guide), updated by DHCS as of July 2023, includes the three CalAIM housing-related supports mentioned above: housing transition navigation services; a wide range of housing-related deposits and one-time costs; and housing tenancy and sustaining services, which can include training, benefits advocacy, eviction prevention, and assisting in issues like resolving disputes with landlords.

Committee Amendments:

The committee may wish to consider the following amendments***:***

1) Adopt the following amendments that were inadvertently left out of the set amendments taken in Assembly Health Committee:

    a) In Section 5830 add "(H) Project-based housing assistance, including master leasing of project-based housing."

   b) In Section 5830 correct an incorrect reference. Subdivision (d) should refer to a low-rent housing project as provided for in subdivision (e), not Section 5831.

2) Require that housing interventions funded by counties conform to Housing First. This amendment would be consistent with state policy that all housing programs funded by the state are Housing First.

3) The by right, streamlining provisions in the bill could be used by both PSH and unlocked residential treatment bed providers. However, while PSH generally operates under 55-year affordable covenants, unlocked residential treatment facilities do not.

   a) Apply the requirement for 55-year covenants only to PSH.

4) The by right, streamlining provisions require an applicant to determine the density for a capital development based on the nearest multi-family development. Residential treatment centers fall under zoning for health facilities and are zoned for beds, not for units.

   a. Make residential facilities by right on sites that are zoned for health care facilities, office, retail, or parking as a principally permitted use.

RELATED LEGISLATION.

SB 43 (Eggman) of the current legislative session expands the definition of "gravely disabled" to also include a condition in which a person, as a result of a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is, in addition to the basic personal needs as described, unable to provide for their personal safety or necessary medical care, as defined. Authorizes counties to defer implementation of these provisions to January 1, 2025, as specified. SB 43 is pending in the Assembly Appropriations Committee.

AB 531 (Irwin) of the current legislative session authorizes, subject to voter approval, the issuance of $4.68 billion in general obligation to be issued by the DHCS and HCD, to fund supportive housing for veterans experiencing or at risk of homelessness with BH challenges and unlocked residential facilities for individuals with BH challenges experiencing or at risk of homelessness. AB 531 is pending in the Senate Appropriations Committee.

AB 1657 (Wicks) of the current legislative session authorizes the issuance of $10 billion in bonds to be used to finance housing-related homelessness programs and funding for affordable housing for extremely low-income and very low-income Californians. AB 1657 is pending in the Senate Appropriations Committee.

Double Referred*:* This bill is double referred. It was heard in the Assembly Committee on Health and passed on a vote of 11-0 on August 22, 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP

Alzheimer's San Diego
Big City Mayors
California Conference of Carpenters
California Hospital Association
California Professional Firefighters
California Retailers Association
California State Council of Service Employees International Union (SEIU California)
Cedars Sinai
Chicano Federation of San Diego County
City of Bakersfield
City of Carlsbad
City of Compton
City of Fountain Valley
City of Fowler
City of Fullerton
City of Lindsay
City of Moreno Valley
City of Oakland
City of Paramount
City of Parlier
City of Perris
City of Riverside
City of Salinas
City of San Diego
City of San Leandro
City of San Rafael
City of Stockton
Clinica Sierra Vista
Comite Civico Del Valle
Crisis House
Darrell Steinberg, Mayor of Sacramento
Devine & Gong, INC.
El Camino Homeless Organization
Father Joe's Villages
Greater Riverside Chambers of Commerce
Greater Sacramento Urban League
Hope the Mission
Illumination Foundation
Jerry Dyer, Mayor of City of Fresno
Jewish Family Service of San Diego
Kings Tulare Homeless Alliance
Koreatown Youth and Community Center INC.
League of California Cities
Mayor Farrah N. Khan, City of Irvine
Mayor Jen Wolosin City of Menlo Park
Mayor Julian A. Gold, M.D., City of Beverly Hills
Mayor of City & County of San Francisco London Breed
National Alliance on Mental Illness (NAMI-CA)
Pallet Shelter

Parkview Legacy
Poverello House
Salt and Light Works
San Diego Oasis
San Gabriel Valley Economic Partnership
Scripps Health
Solano County Board of Supervisors
Southern California Rental Housing Association
Steinberg Institute
The Salvation Army, a California Corporation
The Umbrella Effect: Project Becky
United States Veterans Initiative - Inglewood
Valley Industry and Commerce Association (VICA)
Wiseplace

Support If Amended

California Children's Hospital Assn
National Center for Youth Law
The Children's Partnership

Opposition

ACLU California Action
Cal Voices
California Assoc. of Mental Health Peer Run Organizations (CAMHPRO)
Mental Health America of California
Mental Health Services ACT Steering Committee, County of Sacramento
Oasis Legal Services

Oppose Unless Amended

Alameda County Families Advocating for the Seriously Mentally Ill
California Coalition for Youth
California Pan - Ethnic Health Network
County of Fresno
County of Monterey
First 5 Association of California

Other (Includes Letters of Concern, Neutral Positions, and Support in Concept)
California Alliance of Child and Family Services
California Council of Community Behavioral Health Agencies
California Council of Community Behavioral Health Agencies (CBHA)
California State Association of Counties
Chief Probation Officers' of California (CPOC)
Corporation for Supportive Housing
County Behavioral Health Directors Association of California
County Health Executives Association of California (CHEAC)
County of Nevada, California

County of Santa Clara
County Welfare Directors Association of California (CWDA)
Housing California
National Alliance to End Homelessness
Orange; County of
Rural County Representatives of California (RCRC)
State Building and Construction Trades Council of Ca
Urban Counties of California (UCC)

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085