

# Reform with Care: Expanding Mental Health Conservatorships in California

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For fifty years, policymakers, clinicians, and advocates have agreed that people living with serious psychiatric disabilities should have access to voluntary, community-based care. Since the 1960s, the number of public hospital beds available for severe mental illness has decreased by 90%. There is ongoing debate as to whether crises of patient homelessness and incarceration are due to inadequate resources or the legal inability to force people into treatment. With this in mind, policymakers and other leaders are now considering loosening the criteria for involuntary treatment and placing people in locked facilities.

## Overview of California Conservatorship Laws

In 2018 and 2019 California passed two laws, SB 1045 and SB 40, which expand the use of “conservatorships,” a form of long-term guardianship for the mentally ill. Under existing law, a person can be conserved when a court finds that they are “gravely disabled,” meaning they are unable to meet their own basic needs for food, clothing, and shelter. When a person is placed in a conservatorship, they are put under the supervision of a conservator, typically a public employee from a specialized office in the county social services administration. The conservator is given the power to decide where the conservatee lives, can control their assets (including disability benefits), and can request involuntary medication.

The new laws allow San Francisco, Los Angeles, and San Diego to create a new pathway into conservatorship for people with combined mental health and substance use disorders who have been subject to eight or more involuntary holds in a twelve-month period. In most cases, involuntary holds occur when a police officer or clinician deems someone a danger to themselves or others and has them transported to an emergency room for evaluation. The policymakers backing the bill noted that it is meant to target a small number of chronically-homeless, meth-using individuals who are cycling frequently between hospitals, jails, and the street. [Critics contend](#) that the bill will be used to “remove houseless people from the streets” without ever having truly offered high quality, voluntary services.

To date, only San Francisco has moved ahead with the program. To better understand how conservatorships function in the state, we spent several years working with intensive outpatient treatment in teams in the Bay Area and Los Angeles, collected over eighty interviews with clinicians, public defenders, and county conservators, participated in working groups, and attended dozens of hearings about long-term housing and conservatorship in California.

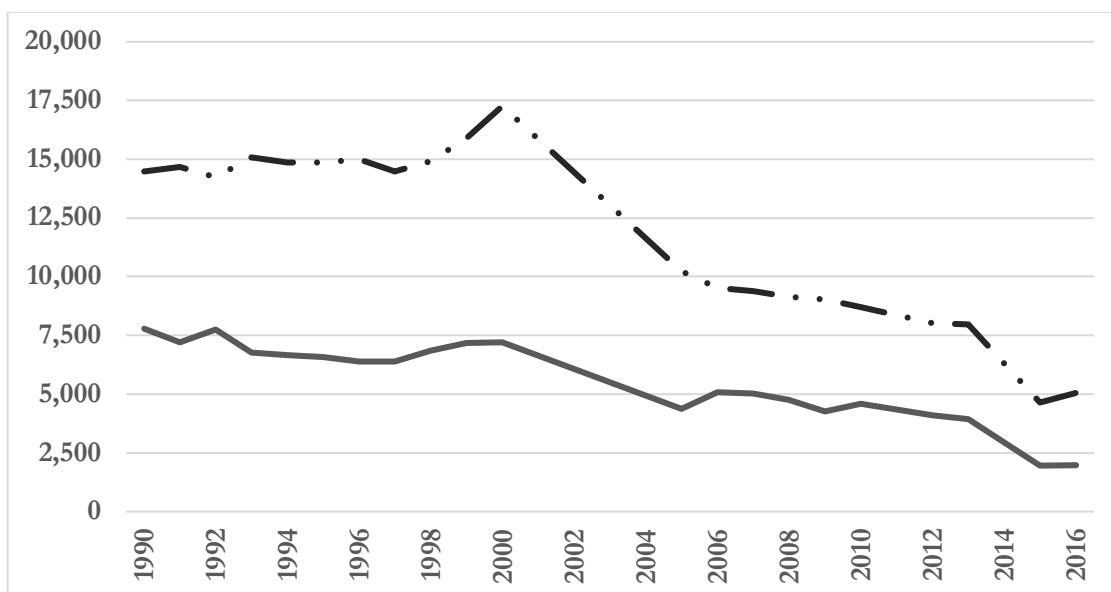
## Policy Recommendations

As San Diego and Los Angeles consider whether and how to implement SB 40 pilot programs, we urge policymakers to consider the findings below. Our extensive study of conservatorship in the state make us question whether the programs will have their desired effect, and we suggest revisions to the model implemented by San Francisco.

**Expanding conservatorship requires expanding placement options.** The number of permanent (one year) and Temporary (30 day) conservatorships has fallen two-thirds since the 1990s (see Figure). The county conservators we interviewed were clear—the decline was not a result of increasingly strict definitions of “grave disability” by the courts. Instead, counties are filing for fewer conservatorships because there are insufficient beds to keep people in hospitals while the conservatorship process advances and because there is nowhere to put them once conserved. Counties like San Francisco send 70% of their conservatees out of the city to places where locked sub-acute facilities or unlocked Board-and-Care homes are cheaper. However, these facilities are rapidly closing. Simply changing the criteria for conservatorship will not address the issue unless appropriate placements become available.

**New placements should address the specific needs of conservatees.** Proponents of the bills have referred to the new guardianships as “housing conservatorships”—because the ultimate goal is for conservatees to go into permanent, independent housing with support. However, nearly all the professionals we spoke to believe the people targeted by the bills will need higher levels of care. For higher levels of care, though, there is more demand than there are housing placements available. This means that operators can screen out people with criminal records, addiction, and complex medical needs—precisely the population targeted by SB 40/1045. Implementing SB 40/1045 should coincide with new mechanisms such as additional funding to support programs, personnel, and facilities charged with caring for conserved persons.

*Decline in Temporary and Permanent Conservatorships in California (1990-Present)*



Read more at [“Save San Francisco’s Board and Care Homes—and then Fix Them,”](#) in the *San Francisco Chronicle*, September 17, 2019.

To understand whether and how conservatorship works, research investment is needed. The [last published research](#) that looked at outcomes from conservatorships in California are based on data from the late 1980s or early '90s. Some proponent of SB 1045/40 have argued that new conservatorships will work thanks to a “black robe effect”—increased treatment compliance when ordered by a judge. However, this argument [is contested](#) and is based on programs that are very different from conservatorship. These new programs should be rigorously evaluated not just in reducing service use (like hospitalizations) but also in achieving clients’ own goals of recovery and independence. This means including potentially conserved and conserved persons into the implementation process itself. San Francisco’s Housing Conservatorships Working Group includes two people representing disability rights organizations, and future deliberations should include people with lived experience of involuntary mental health treatment.

**Public defenders responsible for representing conserved clients are concerned that legal protections are insufficient.** In many counties, [75%](#) of conservatorship hearings are uncontested. Attorneys we spoke with often feel that they do not have the time or the training to work with clients to determine if they are really consenting to conservatorships. Cities could consider models like New York’s [Mental Hygiene Legal Services](#), a group of attorneys specifically dedicated to and specialized in representing people with psychiatric disabilities full time, to ensure full legal protections to conservatees.

**Intensive services do not need to be involuntary.** Professionals we interviewed around the state believe that there is a need for more intensive treatment options. But [many countries](#) around the world have found that a higher number of inpatient psychiatric beds actually reduces the need for involuntary care. Some, [like France](#), consider the ratio of voluntary to involuntary hospitalizations to be an important metric of the system’s success. Even involuntary placements could be made more respectful of individual rights if California followed other states and adopted tools like the Psychiatric Advance Directives. The expansion of conservatorships in California risks creating a system where the highest quality services can only be accessed through a court order.

**Reform must address the root causes of homelessness.** California’s homelessness crisis is a product of factors like excessively high housing costs and inaccessible or inadequate safety nets. Expanding conservatorships must not take the place of larger structural reforms needed to address housing insecurity in the state.