



**STATE CAPITOL**  
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**CHIEF ADMINISTRATIVE OFFICER**  
LIA LOPEZ

**Assembly  
California Legislature  
Committee on Rules**

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MAIENSCHIN, BRIAN  
TING, PHILIP Y.  
WALDRON, MARIE

ARAMBULA, JOAQUIN (D-ALT)  
DIXON, DIANE (R-ALT)

Monday, August 26, 2024  
10 minutes prior to Session  
State Capitol, Room 126  
(Please note time change)

**CONSENT AGENDA**

**BILL REFERRALS**

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**RESOLUTIONS**

2. HR-128 (Petrie-Norris) International Credit Union Day. (refer/hear) [Page 4](#)  
3. SCR-80 (Roth) Childhood Cancer Awareness Month. (refer/hear) [Page 7](#)  
4. SCR-161 (Allen) The First Continental Congress. (refer/hear) [Page 14](#)

**REQUESTS TO WAIVE JOINT RULE 61(B)(16)**

5. SB 1400 (Stern) Criminal procedure: competence to stand trial [Page 17](#)  
6. SB 1420 (Caballero) Hydrogen production facilities: certification and environmental review [Page 56](#)

**ADMINISTRATIVE ITEM**

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MARIE WALDRON  
JOAQUIN ARAMBULA (D-ALT.)  
DIANE B. DIXON (R-ALT.)

# Memo

**To:** Rules Committee Members  
**From:** Michael Erke, Bill Referral Consultant  
**Date:** 8/26/2024  
**Re:** Consent Bill Referrals

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Attached is a list of referral recommendations.

REFERRAL OF BILLS TO COMMITTEE

08/26/2024

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly Bill No.	Committee:
<u>HR 128</u>	RLS.
<u>SCR 13</u>	TRANS.
<u>SCR 80</u>	RLS.
<u>SCR 161</u>	RLS.
<u>SCR 169</u>	TRANS.

**House Resolution**

**No. 128**

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**Introduced by Assembly Member Petrie-Norris  
(Coauthor: Assembly Member Grayson)**

August 21, 2024

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House Resolution No. 128—Relative to International Credit Union Day.

1 WHEREAS, Credit unions are not-for-profit financial  
2 cooperatives, democratically owned and operated and founded by  
3 people working together toward economic advancement; and  
4 WHEREAS, Credit unions embrace a “people-helping-people”  
5 philosophy through the pooling of personal resources and  
6 leadership abilities for the good of the cooperative, empowering  
7 members to improve their financial futures and uniting to help  
8 those in need; and  
9 WHEREAS, Credit unions have demonstrated outstanding  
10 leadership throughout the communities in which they have served  
11 since they were founded more than 150 years ago; and  
12 WHEREAS, Credit unions have championed the idea that people  
13 from all walks of life should have access to affordable financial  
14 services offered by credit unions; and  
15 WHEREAS, Credit unions empower people to improve their  
16 economic situations in 118 nations around the world at more than  
17 87,000 credit unions that serve the financial needs of 393 million  
18 members, including nearly 14 million members in California  
19 associated through local, state, regional, and international  
20 organizations sharing the same commitment to serve credit union  
21 members; and

1 WHEREAS, Credit unions are developing strong alliances that  
2 make financial democracy possible in many countries throughout  
3 the world; now, therefore, be it  
4 *Resolved by the Assembly of the State of California*, That the  
5 Assembly proclaims Thursday, October 17, 2024, as International  
6 Credit Union Day in California, and calls upon all Californians to  
7 recognize the many contributions credit unions have made to the  
8 communities in the state, both tangible and intangible, through the  
9 years, and honor and express appreciation for the service and  
10 commitment of credit unions; and be it further  
11 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
12 of this resolution to the author for appropriate distribution.

O

Date of Hearing: August 26, 2024

ASSEMBLY COMMITTEE ON RULES  
Blanca Pacheco, Chair  
HR 128 (Petrie-Norris) – As Introduced August 21, 2024

**SUBJECT:** International Credit Union Day.

**SUMMARY:** Proclaims Thursday, October 17, 2024, as International Credit Union Day in California, calls upon all Californians to recognize the many contributions credit unions have made to communities, and expresses appreciation for the service and commitment of credit unions. Specifically, **this resolution** makes the following legislative findings:

- 1) Credit unions are not-for-profit financial cooperatives, democratically owned and operated, and founded by people working together toward economic advancement.
- 2) Credit unions embrace a “people-helping-people” philosophy through the pooling of personal resources and leadership abilities for the good of the cooperative, empowering members to improve their financial futures and uniting to help those in need.
- 3) Credit unions have demonstrated outstanding leadership throughout the communities in which they have served since they were founded more than 150 years ago.
- 4) Credit unions have championed the idea that people from all walks of life should have access to affordable financial services offered by credit unions.
- 5) Credit unions empower people to improve their economic situations in 118 nations around the world at more than 87,000 credit unions that serve the financial needs of 393 million members, including nearly 14 million members in California associated through local, state, regional, and international organizations sharing the same commitment to serve credit union members.
- 6) Credit unions are developing strong alliances that make financial democracy possible in many countries throughout the world.

**FISCAL EFFECT:** This resolution is keyed non-fiscal by Legislative Counsel

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Michael Erke / RLS. / (916) 319-2800

AMENDED IN SENATE AUGUST 8, 2024

**Senate Concurrent Resolution**

**No. 80**

**Introduced by Senator Roth**

*(Principal coauthor: Senator Rubio)*

*(Coauthors: Senators Atkins, Dodd, Hurtado, Limón, Nguyen, Niello, Ochoa Bogh, Seyarto, Stern, Umberg, and Wilk)*

*(Coauthors: Assembly Members Alanis, Juan Carrillo, Chen, Flora, Stephanie Nguyen, Papan, Petrie-Norris, Luz Rivas, Blanca Rubio, and Ting)*

June 19, 2023

Senate Concurrent Resolution No. 80—Relative to Childhood Cancer Awareness Month.

LEGISLATIVE COUNSEL'S DIGEST

SCR 80, as amended, Roth. Childhood Cancer Awareness Month.

This measure would declare the month of September ~~2023~~ 2024 as Childhood Cancer Awareness Month and state the commitment of the Legislature to support efforts to find cures for, and achieve prevention of, cures, and less toxic treatments, for childhood cancer.

Fiscal committee: no.

1 WHEREAS, ~~Cancer is by far~~ *According to the American*  
2 *Childhood Cancer Organization (ACCO), cancer is the leading*  
3 *cause of death by disease among children in California and this*  
4 *country; and*

5 ~~WHEREAS, According to the American Cancer Society, there~~  
6 ~~are more than a dozen types of childhood cancer, each with their~~  
7 ~~own unique challenges and treatment options; and~~

98

1 WHEREAS, Many children in California are afflicted with  
2 cancer, experiencing enormous pain and suffering, and they and  
3 their families require extraordinary levels of information and  
4 support in their struggles against this disease; and

5 *WHEREAS, The ACCO is making childhood cancer a national*  
6 *health priority by shaping policy with \$98,800,000 appropriated*  
7 *in seven states, supporting research, raising awareness, providing*  
8 *educational resources and innovative programs to children with*  
9 *cancer, survivors, and their families; and*

10 ~~WHEREAS, In addition to childhood cancer treatment being~~  
11 ~~time-consuming, it is oftentimes expensive, as a report by the~~  
12 ~~American Cancer Society found that treatment for childhood cancer~~  
13 ~~costs can range from tens of thousands of dollars to over~~  
14 ~~\$1,000,000, depending on the type of cancer and the duration of~~  
15 ~~treatment; and~~

16 ~~WHEREAS, Children with cancer often require long hospital~~  
17 ~~stays, with an average of 12.5 days according to the American~~  
18 ~~Childhood Cancer Organization (ACCO); and~~

19 ~~WHEREAS, Long and frequent hospital stays disrupt children's~~  
20 ~~educational and social development, in addition to being financially~~  
21 ~~challenging to their families; and~~

22 ~~WHEREAS, Successful prevention and treatment of many types~~  
23 ~~of childhood cancer has not yet been achieved; and~~

24 ~~WHEREAS, Childhood cancer is the leading cause of death by~~  
25 ~~disease amongst children in the United States, however, childhood~~  
26 ~~cancer research receives less than 4 percent of all federal cancer~~  
27 ~~research funding; and~~

28 ~~WHEREAS, The prevention and treatment of cancer requires~~  
29 ~~a high level of commitment in order to provide the necessary~~  
30 ~~resources and research; and~~

31 ~~WHEREAS, California has many of the world's finest medical,~~  
32 ~~academic, and commercial institutions, and must continue as a~~  
33 ~~leader in the fight against this terrible disease; and~~

34 *WHEREAS, The potential years of life lost from childhood*  
35 *cancer and the potential years of life saved by treatment exceed*  
36 *all other cancers except for breast cancer; and*

37 *WHEREAS, California is a leader in the fight against and*  
38 *treatment of childhood cancers with 18 Children's Oncology Group*  
39 *(COG) hospitals: Cedars-Sinai Medical Center, Children's*  
40 *Hospital Los Angeles, Children's Hospital of Orange County, City*



1 *of Hope Comprehensive Cancer Center, Kaiser Permanente*  
2 *Downey Medical Center, Kaiser Permanente Oakland Medical*  
3 *Center, Loma Linda University Medical Center, Lucile Packard*  
4 *Children’s Hospital Stanford, UCLA Mattel Children’s Hospital,*  
5 *Miller Children’s and Women’s Hospital Long Beach, Naval*  
6 *Medical Center San Diego, Rady Children’s Hospital-San Diego,*  
7 *Santa Barbara Cottage Hospital, Sutter Medical Center,*  
8 *Sacramento, UCSF Benioff Children’s Hospital Oakland, UCSF*  
9 *Medical Center at Mission Bay, UC Davis Comprehensive Cancer*  
10 *Center, and Valley Children’s Hospital; and*

11 *WHEREAS, California has the most National Cancer Institute*  
12 *(NCI) designated cancer centers in the country: UCI Chao Family*  
13 *Comprehensive Cancer Center, City of Hope Comprehensive*  
14 *Cancer Center, UCLA Health Jonsson Comprehensive Cancer*  
15 *Center, Salk Cancer Center, Stanford Cancer Institute, UC Davis*  
16 *Comprehensive Cancer Center, Moores Cancer Center at UC San*  
17 *Diego Health, UCSF Helen Diller Family Comprehensive Cancer*  
18 *Center, Sanford Burnham Prebys Medical Discovery Institute, and*  
19 *USC Norris Comprehensive Cancer Center; and*

20 *WHEREAS, The California Institute for Regenerative Medicine*  
21 *(CIRM) provides over \$3,000,000,000 total in funding for stem*  
22 *cell research and therapy development, including cancer research,*  
23 *making the State of California a leader in the nation for funding*  
24 *and ~~research~~; research, but more targeted efforts on childhood*  
25 *cancer are still needed; and*

26 *WHEREAS, California is number one in the country for pediatric*  
27 *leukemia incidence rates and number 21 in the country for overall*  
28 *incidence rates; and*

29 *WHEREAS, Due to children’s bodies still growing and cancer*  
30 *treatments largely geared toward use on adults, children are more*  
31 *likely to experience long-term side effects from treatment which*  
32 *could include, but are not limited to, heart or lung problems,*  
33 *slowed or delayed development, changes in sexual development*  
34 *and infertility, learning disabilities, hearing loss, and increased*  
35 *risk of secondary forms of cancer; and*

36 *WHEREAS, California has many of the world’s finest medical,*  
37 *academic, and commercial institutions and the treatment of cancer*  
38 *requires a high level of commitment to provide the necessary*  
39 *resources and research that not only Californians have access to,*

1 *but families all across the United States and the world travel to*  
2 *California for its extraordinary treatment and clinical trials; and*  
3 *WHEREAS, Childhood cancer treatment is handled by a team*  
4 *of pediatric oncologists, surgeons, radiation oncologists, pediatric*  
5 *oncology nurses, nurse practitioners, physician assistants,*  
6 *psychologists, social workers, child life specialists, nutritionists,*  
7 *rehabilitation and physical therapists, and educators; and*  
8 *WHEREAS, Some of the most important members of a pediatric*  
9 *cancer patient's team are experienced parents who navigate and*  
10 *advocate on behalf of their children and other children fighting*  
11 *this disease; and*  
12 ~~*WHEREAS, Increased public awareness of this major public*~~  
13 ~~*health problem is a crucial step toward finding solutions; and*~~  
14 ~~*WHEREAS, The ACCO is the nation's oldest and largest*~~  
15 ~~*grassroots organization dedicated to fighting childhood cancer. In*~~  
16 ~~*1997, a group of parents of children impacted by cancer chose*~~  
17 ~~*cancer and was the leading organization to choose gold to*~~  
18 ~~*represent childhood cancer. Thus, the gold ribbon. Ever since then,*~~  
19 ~~*supporters around the world Go Gold to represent childhood cancer*~~  
20 ~~*warriors and heroes; cancer; and*~~  
21 ~~*WHEREAS, The ACCO is making childhood cancer a national*~~  
22 ~~*health priority through shaping policy, supporting research, raising*~~  
23 ~~*awareness, and providing educational resources and innovative*~~  
24 ~~*programs to children with cancer, survivors, and their families;*~~  
25 ~~*and*~~  
26 ~~*WHEREAS, Childhood Cancer Awareness Month is an*~~  
27 ~~*important nationwide tool for raising awareness among*~~  
28 ~~*governmental officials and the public about the nature and scope*~~  
29 ~~*of this problem; now, therefore, be it*~~  
30 ~~*Resolved by the Senate of the State of California, the Assembly*~~  
31 ~~*thereof concurring, That the Legislature hereby declares the month*~~  
32 ~~*of September 2023 2024 as Childhood Cancer Awareness Month;*~~  
33 ~~*Month and encourages individuals, businesses, and organizations*~~  
34 ~~*throughout the state to participate in activities and events that*~~  
35 ~~*promote the awareness of childhood cancer and support families*~~  
36 ~~*affected by this devastating disease, not just during September,*~~  
37 ~~*but throughout the year; and be it further*~~  
38 ~~*Resolved, That the Legislature celebrates the progress of all*~~  
39 ~~*related organizations in aiding children battling childhood cancer*~~  
40 ~~*while simultaneously renewing its commitment to that cause,*~~

1 *supports young Californians who are fighting cancer, honors*  
2 *young people who have lost their lives to childhood cancer,*  
3 *expresses gratitude to all hospital staff who provide special care*  
4 *to patients and families affected by childhood cancer, and*  
5 *encourages all residents in this state to join the fight against*  
6 *childhood cancer; and be it further*

7 *Resolved, That the Legislature is committed to supporting efforts*  
8 *to find cures for, and achieve prevention of, cures, and less toxic*  
9 *treatments, for childhood cancer; and be it further*

10 *Resolved, That the Secretary of the Senate transmit copies of*  
11 *this resolution to the author for appropriate distribution.*

O

Date of Hearing: August 26, 2024

ASSEMBLY COMMITTEE ON RULES  
Blanca Pacheco, Chair  
SCR 80 (Roth) – As Amended August 8, 2024

**SENATE VOTE:** 33-0

**SUBJECT:** Childhood Cancer Awareness Month.

**SUMMARY:** Declares the month of September 2024 as Childhood Cancer Awareness Month, and encourages individuals, businesses, and organizations throughout the state to participate in activities and events that promote the awareness of childhood cancer and support families affected by this devastating disease. Specifically, **this resolution** makes the following legislative findings:

- 1) According to the American Childhood Cancer Organization (ACCO), cancer is the leading cause of death by disease among children in California and this country.
- 2) Many children in California are afflicted with cancer, experiencing enormous pain and suffering, and they and their families require extraordinary levels of information and support in their struggles against this disease.
- 3) The ACCO is making childhood cancer a national health priority by shaping policy with \$98.8 million appropriated in seven states, supporting research, raising awareness, providing educational resources and innovative programs to children with cancer, survivors, and their families.
- 4) The potential years of life lost from childhood cancer and the potential years of life saved by treatment exceed all other cancers except for breast cancer.
- 5) The California Institute for Regenerative Medicine (CIRM) provides over \$3 billion total in funding for stem cell research and therapy development, including cancer research, making the State of California a leader in the nation for funding and research, but more targeted efforts on childhood cancer are still needed.
- 6) California has many of the world's finest medical, academic, and commercial institutions and the treatment of cancer requires a high level of commitment to provide the necessary resources and research that not only Californians have access to, but families all across the United States and the world that travel to California for treatment and clinical trials.
- 7) Childhood Cancer Awareness Month is an important nationwide tool for raising awareness among governmental officials and the public nature and scope of this problem.

**FISCAL EFFECT:** This resolution is keyed non-fiscal by Legislative Counsel.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Michael Erke / RLS. / (916) 319-2800

**Introduced by Senator Allen**

June 12, 2024

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Senate Concurrent Resolution No. 161—Relative to the First Continental Congress.

LEGISLATIVE COUNSEL’S DIGEST

SCR 161, as introduced, Allen. The First Continental Congress.

This measure would commemorate the 250th anniversary of the First Continental Congress and encourage and all citizens to reflect on the legacy of the First Continental Congress and honor the sacrifices made by the delegates who stood up for the principles of liberty and self-governance.

Fiscal committee: no.

- 1 WHEREAS, On September 5, 1774, the First Continental
- 2 Congress convened in Philadelphia, Pennsylvania, marking a
- 3 pivotal moment in the history of the United States; and
- 4 WHEREAS, The delegates representing the thirteen American
- 5 colonies at the First Continental Congress came together to address
- 6 the growing tensions with the British government, ultimately laying
- 7 the groundwork for the American Revolution; and
- 8 WHEREAS, The First Continental Congress adopted the Suffolk
- 9 Resolves, which called for the repeal of the Intolerable Acts and
- 10 urged the colonies to prepare for potential military conflict with
- 11 the British forces; and
- 12 WHEREAS, The First Continental Congress laid the foundation
- 13 for the future nation by establishing a unified front against the
- 14 British government and setting the stage for the Declaration of
- 15 Independence and the birth of the United States of America; and

1 WHEREAS, The ideals of freedom, equality, and democracy  
2 that were championed at the First Continental Congress continue  
3 to inspire generations of Americans to fight for justice and the  
4 pursuit of a more perfect union; and

5 WHEREAS, The 250th anniversary of the First Continental  
6 Congress is a momentous occasion that deserves to be celebrated  
7 and remembered as a key milestone in the history of our nation;  
8 now, therefore, be it

9 *Resolved by the Senate of the State of California, the Assembly*  
10 *thereof concurring,* That the 250th anniversary of the First  
11 Continental Congress is hereby commemorated and the significance  
12 of this historic event is recognized for shaping the course of  
13 American history; and be it further

14 *Resolved,* That all citizens are encouraged to reflect on the legacy  
15 of the First Continental Congress and honor the sacrifices made  
16 by the delegates who stood up for the principles of liberty and  
17 self-governance that continue to define our nation; and be it further

18 *Resolved,* That the Secretary of the Senate transmit copies of  
19 this resolution to the author for appropriate distribution.

O

Date of Hearing: August 26, 2024

ASSEMBLY COMMITTEE ON RULES  
Blanca Pacheco, Chair  
SCR 161 (Allen) – As Introduced June 12, 2024

**SENATE VOTE:** 38-0

**SUBJECT:** The First Continental Congress.

**SUMMARY:** Commemorates the 250th anniversary of the First Continental Congress and encourages all citizens to reflect on the legacy of the First Continental Congress and honor the sacrifices made by the delegates who stood up for the principles of liberty and self-governance. Specifically, **this resolution** makes the following legislative findings:

- 1) On September 5, 1774, the First Continental Congress convened in Philadelphia, Pennsylvania, marking a pivotal moment in the history of the United States.
- 2) The delegates representing the thirteen American colonies at the First Continental Congress came together to address the growing tensions with the British government, ultimately laying the groundwork for the American Revolution.
- 3) The First Continental Congress adopted the Suffolk Resolves, which called for the repeal of the Intolerable Acts and urged the colonies to prepare for potential military conflict with the British forces. They laid the foundation for the future nation by establishing a unified front against the British government and setting the stage for the Declaration of Independence and the birth of the United States of America.
- 4) The ideals of freedom, equality, and democracy that were championed at the First Continental Congress continue to inspire generations of Americans to fight for justice and the pursuit of a more perfect union.
- 5) The 250th anniversary of the First Continental Congress is a momentous occasion that deserves to be celebrated and remembered as a key milestone in the history of our nation.

**FISCAL EFFECT:** This resolution is keyed non-fiscal by Legislative Counsel.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Michael Erke / RLS. / (916) 319-2800





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LIA LOPEZ

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DIANE B. DIXON (R-ALT.)

August 26, 2024

Assembly Rules Committee  
1021 O Street, Suite 6250  
Sacramento, CA 95814

Dear Members of the Committee on Rules:

I write to request that we approve a Joint Rule 61(b)(16) waiver for the following bills so that they may be amended on the Assembly Floor:

SB 1400 (Stern)  
SB 1420 (Caballero)

Sincerely,

**BLANCA PACHECO**  
Assemblywoman, 64<sup>th</sup> District

# PROPOSED AMENDMENTS

**RN 24 21385 05**  
**08/23/24 05:46 PM**  
**SUBSTANTIVE**

PROPOSED AMENDMENTS TO SENATE BILL NO. 1400  
AMENDED IN SENATE APRIL 11, 2024

**SENATE BILL**

**No. 1400**

**Introduced by Senator Stern**  
**(Coauthors: Senators Archuleta, Eggman, and Hurtado)**

February 16, 2024



An act to amend Sections 1001.36 and 1370.01 of the Penal Code, and to amend Section 5985 of the Welfare and Institutions Code, relating to criminal procedure.

**Amendment 1**

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1400, as amended, Stern. Criminal procedure: competence to stand trial.

Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and if the defendant is found incompetent to stand trial, the proceedings are suspended while the defendant receives treatment, with the goal of restoring the defendant to competency.

Existing law, in the case of a misdemeanor charge in which the defendant is found incompetent, requires the court to either dismiss the case or hold a hearing to determine if the defendant is eligible for diversion. Under existing law, if the defendant *is* not eligible for diversion, the court may hold another hearing to decide if the defendant should be referred for outpatient treatment, conservatorship, or the CARE program, or if the defendant's treatment plan should be modified. *Existing law requires that the charges be dismissed if a defendant is accepted into outpatient treatment or the CARE program.* Existing law also requires the court, if the defendant is already on a grant of diversion

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**PROPOSED AMENDMENTS**

**RN 24 21385 05  
08/23/24 05:46 PM  
SUBSTANTIVE**

**SB 1400**

— 2 —

for a misdemeanor case, to dismiss the current case and return the defendant to supervision.

This bill would remove the option for the court to dismiss the case and would instead require the court to hold a hearing to determine if the defendant is eligible for diversion. If the defendant is not eligible for diversion, the bill would require the court to hold a hearing to determine whether the defendant will be referred to outpatient treatment, conservatorship, or the CARE program, or if the defendant’s treatment plan will be modified. *The bill would require a defendant to complete the outpatient treatment or CARE program, or participate for a minimum period prior to dismissal of the charges.*

This bill would also remove the requirement that the court dismiss the case if the defendant is already on a grant of diversion for a misdemeanor case.

Existing law prohibits a court from suspending proceedings of a prosecution on a charge of driving under the influence of an alcoholic beverage for the purpose of allowing the defendant to participate in education, training, or treatment programs.

This bill would allow for a mentally incompetent defendant who is charged with misdemeanor driving under the influence to be placed in a mental health diversion program, as specified.

If a mentally incompetent defendant is charged with a felony and a misdemeanor and is committed to mental health treatment, as specified, the bill would require the misdemeanor offense to be dismissed.

*Existing law requires the State Department of Health Care Services, in consultation with the Judicial Council, to develop an annual reporting schedule for the submission of CARE Act data from the trial courts and requires the Judicial Council to aggregate the data and submit it to the department. Existing law requires the department, in consultation with various other entities, to develop an annual CARE Act report and requires county behavioral health agencies and other local governmental entities to provide the department with specified information for that report. Existing law requires the annual report to be posted on the department’s internet website.*

*This bill would expand the data to be compiled and reported to the Judicial Council to include the total number of CARE plans ordered and CARE agreements approved, among other information, and would expand the information compiled from county behavioral health departments to include information on all active and former participants for a period of time after the conclusion of CARE program services, to*

**PROPOSED AMENDMENTS**

*be determined by the State Department of Health Care Services. The bill would also expand the information collected to include outreach and engagement activities provided by county behavioral health agencies, the number of days between a petition and its disposition, and the number, rates, and trends of contacts made to a county behavioral health agency about individuals potentially eligible for the CARE process, among others. By increasing the duties of a local agency, this bill would impose a state-mandated local program. The bill would, in addition to the annual report, require the department to publish a report of quantitative deidentified information to include specified information aggregated by county, such as demographic information of each CARE Act participant and the number of CARE petitions filed with the superior court, among others.*

*This bill would incorporate additional changes to Section 1001.36 of the Penal Code proposed by SB 1323 and additional changes to Section 5985 of the Welfare and Institutions Code proposed by SB 42, to be operative only if this bill and SB 1323 and SB 42 are enacted and this bill is enacted last.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

Page 2

1 ~~SECTION 1. Section 1001.36 of the Penal Code, as added by~~  
2 ~~Section 1.2 of Chapter 687 of the Statutes of 2023, is amended to~~  
3 ~~read:~~  
4 ~~1001.36. (a) On an accusatory pleading alleging the~~  
5 ~~commission of a misdemeanor or felony offense not set forth in~~  
6 ~~subdivision (d), the court may, in its discretion, and after~~  
7 ~~considering the positions of the defense and prosecution, grant~~

**Amendment 2**

**PROPOSED AMENDMENTS**

**RN 24 21385 05  
08/23/24 05:46 PM  
SUBSTANTIVE**

**SB 1400**

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Page 2 8 ~~pretrial diversion to a defendant pursuant to this section if the~~  
9 ~~defendant satisfies the eligibility requirements for pretrial diversion~~  
10 ~~set forth in subdivision (b) and the court determines that the~~  
11 ~~defendant is suitable for that diversion under the factors set forth~~  
12 ~~in subdivision (c).~~

13 ~~(b) A defendant is eligible for pretrial diversion pursuant to this~~  
14 ~~section if both of the following criteria are met:~~

Page 3 15 ~~(1) The defendant has been diagnosed with a mental disorder~~  
16 ~~as identified in the most recent edition of the Diagnostic and~~  
17 ~~Statistical Manual of Mental Disorders, including, but not limited~~  
18 ~~to, bipolar disorder, schizophrenia, schizoaffective disorder, or~~  
19 ~~post-traumatic stress disorder, but excluding antisocial personality~~  
20 ~~disorder and pedophilia. Evidence of the defendant's mental~~  
21 ~~disorder shall be provided by the defense and shall include a~~  
22 ~~diagnosis or treatment for a diagnosed mental disorder within the~~  
23 ~~last five years by a qualified mental health expert. In opining that~~  
24 ~~a defendant suffers from a qualifying disorder, the qualified mental~~  
25 ~~health expert may rely on an examination of the defendant, the~~  
26 ~~defendant's medical records, arrest reports, or any other relevant~~  
27 ~~evidence.~~

28 ~~(2) The defendant's mental disorder was a significant factor in~~  
29 ~~the commission of the charged offense. If the defendant has been~~  
30 ~~diagnosed with a mental disorder, the court shall find that the~~  
31 ~~defendant's mental disorder was a significant factor in the~~  
32 ~~commission of the offense unless there is clear and convincing~~  
33 ~~evidence that it was not a motivating factor, causal factor, or~~  
34 ~~contributing factor to the defendant's involvement in the alleged~~  
35 ~~offense. A court may consider any relevant and credible evidence,~~  
36 ~~including, but not limited to, police reports, preliminary hearing~~  
37 ~~transcripts, witness statements, statements by the defendant's~~  
38 ~~mental health treatment provider, medical records, records or~~  
39 ~~reports by qualified medical experts, or evidence that the defendant~~  
40 ~~displayed symptoms consistent with the relevant mental disorder~~  
41 ~~at or near the time of the offense.~~

42 ~~(c) For any defendant who satisfies the eligibility requirements~~  
43 ~~in subdivision (b), the court must consider whether the defendant~~  
44 ~~is suitable for pretrial diversion. A defendant is suitable for pretrial~~  
45 ~~diversion if all of the following criteria are met:~~

46 ~~(1) In the opinion of a qualified mental health expert, the~~  
47 ~~defendant's symptoms of the mental disorder causing, contributing~~

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Page 3 31 to, or motivating the criminal behavior would respond to mental  
 32 health treatment.

33 ~~(2) The defendant consents to diversion and waives the~~  
 34 ~~defendant’s right to a speedy trial, or a defendant has been found~~  
 35 ~~to be an appropriate candidate for diversion in lieu of commitment~~  
 36 ~~pursuant to clause (iv) of subparagraph (B) of paragraph (1) of~~  
 37 ~~subdivision (a) of Section 1370 or subparagraph (A) of paragraph~~  
 38 ~~(1) of subdivision (b) of Section 1370.01 and, as a result of the~~  
 39 ~~defendant’s mental incompetence, cannot consent to diversion or~~  
 Page 4 1 ~~give a knowing and intelligent waiver of the defendant’s right to~~  
 2 ~~a speedy trial.~~

3 ~~(3) The defendant agrees to comply with treatment as a condition~~  
 4 ~~of diversion, or the defendant has been found to be an appropriate~~  
 5 ~~candidate for diversion in lieu of commitment for restoration of~~  
 6 ~~competency treatment pursuant to clause (iv) of subparagraph (B)~~  
 7 ~~of paragraph (1) of subdivision (a) of Section 1370 or subparagraph~~  
 8 ~~(A) of paragraph (1) of subdivision (b) of Section 1370.01 and, as~~  
 9 ~~a result of the defendant’s mental incompetence, cannot agree to~~  
 10 ~~comply with treatment.~~

11 ~~(4) The defendant will not pose an unreasonable risk of danger~~  
 12 ~~to public safety, as defined in Section 1170.18, if treated in the~~  
 13 ~~community. The court may consider the opinions of the district~~  
 14 ~~attorney, the defense, or a qualified mental health expert, and may~~  
 15 ~~consider the defendant’s treatment plan, the defendant’s violence~~  
 16 ~~and criminal history, the current charged offense, and any other~~  
 17 ~~factors that the court deems appropriate.~~

18 ~~(d) A defendant may not be placed into a diversion program,~~  
 19 ~~pursuant to this section, for the following current charged offenses:~~

20 ~~(1) Murder or voluntary manslaughter.~~  
 21 ~~(2) An offense for which a person, if convicted, would be~~  
 22 ~~required to register pursuant to Section 290, except for a violation~~  
 23 ~~of Section 314.~~

24 ~~(3) Rape.~~  
 25 ~~(4) Lewd or lascivious act on a child under 14 years of age.~~  
 26 ~~(5) Assault with intent to commit rape, sodomy, or oral~~  
 27 ~~copulation, in violation of Section 220.~~  
 28 ~~(6) Commission of rape or sexual penetration in concert with~~  
 29 ~~another person, in violation of Section 264.1.~~  
 30 ~~(7) Continuous sexual abuse of a child, in violation of Section~~  
 31 ~~288.5.~~

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Page 4 32 ~~(8) A violation of subdivision (b) or (c) of Section 11418.~~  
33 ~~(e) At any stage of the proceedings, the court may require the~~  
34 ~~defendant to make a prima facie showing that the defendant will~~  
35 ~~meet the minimum requirements of eligibility for diversion and~~  
36 ~~that the defendant and the offense are suitable for diversion. The~~  
37 ~~hearing on the prima facie showing shall be informal and may~~  
38 ~~proceed on offers of proof, reliable hearsay, and argument of~~  
39 ~~counsel. If a prima facie showing is not made, the court may~~  
Page 5 1 ~~summarily deny the request for diversion or grant any other relief~~  
2 ~~as may be deemed appropriate.~~  
3 ~~(f) As used in this chapter, the following terms have the~~  
4 ~~following meanings:~~  
5 ~~(1) "Pretrial diversion" means the postponement of prosecution;~~  
6 ~~either temporarily or permanently, at any point in the judicial~~  
7 ~~process from the point at which the accused is charged until~~  
8 ~~adjudication, to allow the defendant to undergo mental health~~  
9 ~~treatment, subject to all of the following:~~  
10 ~~(A) (i) The court is satisfied that the recommended inpatient~~  
11 ~~or outpatient program of mental health treatment will meet the~~  
12 ~~specialized mental health treatment needs of the defendant.~~  
13 ~~(ii) The defendant may be referred to a program of mental health~~  
14 ~~treatment utilizing existing inpatient or outpatient mental health~~  
15 ~~resources. Before approving a proposed treatment program, the~~  
16 ~~court shall consider the request of the defense, the request of the~~  
17 ~~prosecution, the needs of the defendant, and the interests of the~~  
18 ~~community. The treatment may be procured using private or public~~  
19 ~~funds, and a referral may be made to a county mental health~~  
20 ~~agency, existing collaborative courts, or assisted outpatient~~  
21 ~~treatment only if that entity has agreed to accept responsibility for~~  
22 ~~the treatment of the defendant, and mental health services are~~  
23 ~~provided only to the extent that resources are available and the~~  
24 ~~defendant is eligible for those services.~~  
25 ~~(iii) If the court refers the defendant to a county mental health~~  
26 ~~agency pursuant to this section and the agency determines that it~~  
27 ~~is unable to provide services to the defendant, the court shall accept~~  
28 ~~a written declaration to that effect from the agency in lieu of~~  
29 ~~requiring live testimony. That declaration shall serve only to~~  
30 ~~establish that the program is unable to provide services to the~~  
31 ~~defendant at that time and does not constitute evidence that the~~

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Page 5 32 ~~defendant is unqualified or unsuitable for diversion under this~~  
33 ~~section.~~  
34 ~~(B) The provider of the mental health treatment program in~~  
35 ~~which the defendant has been placed shall provide regular reports~~  
36 ~~to the court, the defense, and the prosecutor on the defendant’s~~  
37 ~~progress in treatment.~~  
38 ~~(C) The period during which criminal proceedings against the~~  
39 ~~defendant may be diverted is limited as follows:~~

Page 6 1 ~~(i) If the defendant is charged with a felony, the period shall be~~  
2 ~~no longer than two years.~~  
3 ~~(ii) If the defendant is charged with a misdemeanor, the period~~  
4 ~~shall be no longer than one year.~~  
5 ~~(D) Upon request, the court shall conduct a hearing to determine~~  
6 ~~whether restitution, as defined in subdivision (f) of Section 1202.4,~~  
7 ~~is owed to any victim as a result of the diverted offense and, if~~  
8 ~~owed, order its payment during the period of diversion. However,~~  
9 ~~a defendant’s inability to pay restitution due to indigence or mental~~  
10 ~~disorder shall not be grounds for denial of diversion or a finding~~  
11 ~~that the defendant has failed to comply with the terms of diversion.~~  
12 ~~(2) “Qualified mental health expert” includes, but is not limited~~  
13 ~~to, a psychiatrist, psychologist, a person described in Section~~  
14 ~~5751.2 of the Welfare and Institutions Code, or a person whose~~  
15 ~~knowledge, skill, experience, training, or education qualifies them~~  
16 ~~as an expert.~~  
17 ~~(g) If any of the following circumstances exists, the court shall,~~  
18 ~~after notice to the defendant, defense counsel, and the prosecution,~~  
19 ~~hold a hearing to determine whether the criminal proceedings~~  
20 ~~should be reinstated, whether the treatment should be modified,~~  
21 ~~or whether the defendant should be conserved and referred to the~~  
22 ~~conservatorship investigator of the county of commitment to initiate~~  
23 ~~conservatorship proceedings for the defendant pursuant to Chapter~~  
24 ~~3 (commencing with Section 5350) of Part 1 of Division 5 of the~~  
25 ~~Welfare and Institutions Code:~~  
26 ~~(1) The defendant is charged with an additional misdemeanor~~  
27 ~~allegedly committed during the pretrial diversion and that reflects~~  
28 ~~the defendant’s propensity for violence.~~  
29 ~~(2) The defendant is charged with an additional felony allegedly~~  
30 ~~committed during the pretrial diversion.~~  
31 ~~(3) The defendant is engaged in criminal conduct rendering the~~  
32 ~~defendant unsuitable for diversion.~~



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Page 6 33 ~~(4) Based on the opinion of a qualified mental health expert~~  
34 ~~whom the court may deem appropriate, either of the following~~  
35 ~~circumstances exists:~~  
36 ~~(A) The defendant is performing unsatisfactorily in the assigned~~  
37 ~~program.~~  
38 ~~(B) The defendant is gravely disabled, as defined in~~  
39 ~~subparagraph (B) of paragraph (1) of subdivision (h) of Section~~  
40 ~~5008 of the Welfare and Institutions Code. A defendant shall only~~  
Page 7 1 ~~be conserved and referred to the conservatorship investigator~~  
2 ~~pursuant to this finding.~~  
3 ~~(h) If the defendant has performed satisfactorily in diversion,~~  
4 ~~at the end of the period of diversion, the court shall dismiss the~~  
5 ~~defendant’s criminal charges that were the subject of the criminal~~  
6 ~~proceedings at the time of the initial diversion. A court may~~  
7 ~~conclude that the defendant has performed satisfactorily if the~~  
8 ~~defendant has substantially complied with the requirements of~~  
9 ~~diversion, has avoided significant new violations of law unrelated~~  
10 ~~to the defendant’s mental health condition, and has a plan in place~~  
11 ~~for long-term mental health care. If the court dismisses the charges,~~  
12 ~~the clerk of the court shall file a record with the Department of~~  
13 ~~Justice indicating the disposition of the case diverted pursuant to~~  
14 ~~this section. Upon successful completion of diversion, if the court~~  
15 ~~dismisses the charges, the arrest upon which the diversion was~~  
16 ~~based shall be deemed never to have occurred, and the court shall~~  
17 ~~order access to the record of the arrest restricted in accordance~~  
18 ~~with Section 1001.9, except as specified in subdivisions (j) and~~  
19 ~~(k). The defendant who successfully completes diversion may~~  
20 ~~indicate in response to any question concerning the defendant’s~~  
21 ~~prior criminal record that the defendant was not arrested or diverted~~  
22 ~~for the offense, except as specified in subdivision (j).~~  
23 ~~(i) A record pertaining to an arrest resulting in successful~~  
24 ~~completion of diversion, or any record generated as a result of the~~  
25 ~~defendant’s application for or participation in diversion, shall not,~~  
26 ~~without the defendant’s consent, be used in any way that could~~  
27 ~~result in the denial of any employment, benefit, license, or~~  
28 ~~certificate.~~  
29 ~~(j) The defendant shall be advised that, regardless of the~~  
30 ~~defendant’s completion of diversion, both of the following apply:~~  
31 ~~(1) The arrest upon which the diversion was based may be~~  
32 ~~disclosed by the Department of Justice to any peace officer~~

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Page 7 33 application request and that, notwithstanding subdivision (i), this  
34 section does not relieve the defendant of the obligation to disclose  
35 the arrest in response to any direct question contained in any  
36 questionnaire or application for a position as a peace officer, as  
37 defined in Section 830.

38 (2) An order to seal records pertaining to an arrest made pursuant  
39 to this section has no effect on a criminal justice agency's ability  
Page 8 1 to access and use those sealed records and information regarding  
2 sealed arrests, as described in Section 851.92.

3 (k) A finding that the defendant suffers from a mental disorder,  
4 any progress reports concerning the defendant's treatment,  
5 including, but not limited to, any finding that the defendant be  
6 prohibited from owning or controlling a firearm because they are  
7 a danger to themselves or others pursuant to subdivision (m), or  
8 any other records related to a mental disorder that were created as  
9 a result of participation in, or completion of, diversion pursuant  
10 to this section or for use at a hearing on the defendant's eligibility  
11 for diversion under this section may not be used in any other  
12 proceeding without the defendant's consent, unless that information  
13 is relevant evidence that is admissible under the standards described  
14 in paragraph (2) of subdivision (f) of Section 28 of Article I of the  
15 California Constitution. However, when determining whether to  
16 exercise its discretion to grant diversion under this section, a court  
17 may consider previous records of participation in diversion under  
18 this section.

19 (l) The county agency administering the diversion, the  
20 defendant's mental health treatment providers, the public guardian  
21 or conservator, and the court shall, to the extent not prohibited by  
22 federal law, have access to the defendant's medical and  
23 psychological records, including progress reports, during the  
24 defendant's time in diversion, as needed, for the purpose of  
25 providing care and treatment and monitoring treatment for  
26 diversion or conservatorship.

27 (m) (1) The prosecution may request an order from the court  
28 that the defendant be prohibited from owning or possessing a  
29 firearm until they successfully complete diversion because they  
30 are a danger to themselves or others pursuant to subdivision (i) of  
31 Section 8103 of the Welfare and Institutions Code.

32 (2) The prosecution shall bear the burden of proving, by clear  
33 and convincing evidence, both of the following are true:

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Page 8 34 (A) The defendant poses a significant danger of causing personal  
35 injury to themselves or another by having in their custody or  
36 control, owning, purchasing, possessing, or receiving a firearm.

37 (B) The prohibition is necessary to prevent personal injury to  
38 the defendant or any other person because less restrictive  
39 alternatives either have been tried and found to be ineffective or  
Page 9 1 are inadequate or inappropriate for the circumstances of the  
2 defendant.

3 (3) (A) If the court finds that the prosecution has not met that  
4 burden, the court shall not order that the person is prohibited from  
5 having, owning, purchasing, possessing, or receiving a firearm.

6 (B) If the court finds that the prosecution has met the burden,  
7 the court shall order that the person is prohibited, and shall inform  
8 the person that they are prohibited, from owning or controlling a  
9 firearm until they successfully complete diversion because they  
10 are a danger to themselves or others.

11 (4) An order imposed pursuant to this subdivision shall be in  
12 effect until the defendant has successfully completed diversion or  
13 until their firearm rights are restored pursuant to paragraph (4) of  
14 subdivision (g) of Section 8103 of the Welfare and Institutions  
15 Code.

16 (n) This section shall become operative on July 1, 2024.

+ SECTION 1. Section 1001.36 of the Penal Code is amended  
+ to read:

+ 1001.36. (a) On an accusatory pleading alleging the  
+ commission of a misdemeanor or felony offense not set forth in  
+ subdivision (d), the court may, in its discretion, and after  
+ considering the positions of the defense and prosecution, grant  
+ pretrial diversion to a defendant pursuant to this section if the  
+ defendant satisfies the eligibility requirements for pretrial diversion  
+ set forth in subdivision (b) and the court determines that the  
+ defendant is suitable for that diversion under the factors set forth  
+ in subdivision (c).

+ (b) A defendant is eligible for pretrial diversion pursuant to this  
+ section if both of the following criteria are met:

+ (1) The defendant has been diagnosed with a mental disorder  
+ as identified in the most recent edition of the Diagnostic and  
+ Statistical Manual of Mental Disorders, including, but not limited  
+ to, bipolar disorder, schizophrenia, schizoaffective disorder, or  
+ post-traumatic stress disorder, but excluding antisocial personality

+ disorder and pedophilia. Evidence of the defendant’s mental  
+ disorder shall be provided by the defense and shall include a  
+ diagnosis or treatment for a diagnosed mental disorder within the  
+ last five years by a qualified mental health expert. In opining that  
+ a defendant suffers from a qualifying disorder, the qualified mental  
+ health expert may rely on an examination of the defendant, the  
+ defendant’s medical records, arrest reports, or any other relevant  
+ evidence.

+ (2) The defendant’s mental disorder was a significant factor in  
+ the commission of the charged offense. If the defendant has been  
+ diagnosed with a mental disorder, the court shall find that the  
+ defendant’s mental disorder was a significant factor in the  
+ commission of the offense unless there is clear and convincing  
+ evidence that it was not a motivating factor, causal factor, or  
+ contributing factor to the defendant’s involvement in the alleged  
+ offense. A court may consider any relevant and credible evidence,  
+ including, but not limited to, police reports, preliminary hearing  
+ transcripts, witness statements, statements by the defendant’s  
+ mental health treatment provider, medical records, records or  
+ reports by qualified medical experts, or evidence that the defendant  
+ displayed symptoms consistent with the relevant mental disorder  
+ at or near the time of the offense.

+ (c) For any defendant who satisfies the eligibility requirements  
+ in subdivision (b), the court must consider whether the defendant  
+ is suitable for pretrial diversion. A defendant is suitable for pretrial  
+ diversion if all of the following criteria are met:

+ (1) In the opinion of a qualified mental health expert, the  
+ defendant’s symptoms of the mental disorder causing, contributing  
+ to, or motivating the criminal behavior would respond to mental  
+ health treatment.

+ (2) The defendant consents to diversion and waives the  
+ defendant’s right to a speedy trial, ~~unless~~ *or* a defendant has been  
+ found to be an appropriate candidate for diversion in lieu of  
+ commitment pursuant to clause (v) of subparagraph (B) of  
+ paragraph (1) of subdivision (a) of Section 1370 *or subparagraph*  
+ *(A) of paragraph (1) of subdivision (b) of Section 1370.01* and, as  
+ a result of the defendant’s mental incompetence, cannot consent  
+ to diversion or give a knowing and intelligent waiver of the  
+ defendant’s right to a speedy trial.

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+ (3) The defendant agrees to comply with treatment as a condition  
+ of diversion, ~~unless~~ *or* the defendant has been found to be an  
+ appropriate candidate for diversion in lieu of commitment for  
+ restoration of competency treatment pursuant to clause (v) of  
+ subparagraph (B) of paragraph (1) of subdivision (a) of Section  
+ 1370 *or subparagraph (A) of paragraph (1) of subdivision (b) of*  
+ *Section 1370.01* and, as a result of the defendant’s mental  
+ incompetence, cannot agree to comply with treatment.

+ (4) The defendant will not pose an unreasonable risk of danger  
+ to public safety, as defined in Section 1170.18, if treated in the  
+ community. The court may consider the opinions of the district  
+ attorney, the defense, or a qualified mental health expert, and may  
+ consider the defendant’s treatment plan, the defendant’s violence  
+ and criminal history, the current charged offense, and any other  
+ factors that the court deems appropriate.

+ (d) A defendant may not be placed into a diversion program,  
+ pursuant to this section, for the following current charged offenses:

- + (1) Murder or voluntary manslaughter.
- + (2) An offense for which a person, if convicted, would be  
+ required to register pursuant to Section 290, except for a violation  
+ of Section 314.
- + (3) Rape.
- + (4) Lewd or lascivious act on a child under 14 years of age.
- + (5) Assault with intent to commit rape, sodomy, or oral  
+ copulation, in violation of Section 220.
- + (6) Commission of rape or sexual penetration in concert with  
+ another person, in violation of Section 264.1.
- + (7) Continuous sexual abuse of a child, in violation of Section  
+ 288.5.

+ (8) A violation of subdivision (b) or (c) of Section 11418.  
+ (e) At any stage of the proceedings, the court may require the  
+ defendant to make a prima facie showing that the defendant will  
+ meet the minimum requirements of eligibility for diversion and  
+ that the defendant and the offense are suitable for diversion. The  
+ hearing on the prima facie showing shall be informal and may  
+ proceed on offers of proof, reliable hearsay, and argument of  
+ counsel. If a prima facie showing is not made, the court may  
+ summarily deny the request for diversion or grant any other relief  
+ as may be deemed appropriate.

+ (f) As used in this chapter, the following terms have the  
+ following meanings:

+ (1) “Pretrial diversion” means the postponement of prosecution,  
+ either temporarily or permanently, at any point in the judicial  
+ process from the point at which the accused is charged until  
+ adjudication, to allow the defendant to undergo mental health  
+ treatment, subject to all of the following:

+ (A) (i) The court is satisfied that the recommended inpatient  
+ or outpatient program of mental health treatment will meet the  
+ specialized mental health treatment needs of the defendant.

+ (ii) The defendant may be referred to a program of mental health  
+ treatment utilizing existing inpatient or outpatient mental health  
+ resources. Before approving a proposed treatment program, the  
+ court shall consider the request of the defense, the request of the  
+ prosecution, the needs of the defendant, and the interests of the  
+ community. The treatment may be procured using private or public  
+ funds, and a referral may be made to a county mental health  
+ agency, existing collaborative courts, or assisted outpatient  
+ treatment only if that entity has agreed to accept responsibility for  
+ the treatment of the defendant, and mental health services are  
+ provided only to the extent that resources are available and the  
+ defendant is eligible for those services.

+ (iii) If the court refers the defendant to a county mental health  
+ agency pursuant to this section and the agency determines that it  
+ is unable to provide services to the defendant, the court shall accept  
+ a written declaration to that effect from the agency in lieu of  
+ requiring live testimony. That declaration shall serve only to  
+ establish that the program is unable to provide services to the  
+ defendant at that time and does not constitute evidence that the  
+ defendant is unqualified or unsuitable for diversion under this  
+ section.

+ (B) The provider of the mental health treatment program in  
+ which the defendant has been placed shall provide regular reports  
+ to the court, the defense, and the prosecutor on the defendant’s  
+ progress in treatment.

+ (C) The period during which criminal proceedings against the  
+ defendant may be diverted is limited as follows:

+ (i) If the defendant is charged with a felony, the period shall be  
+ no longer than two years.

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- + (ii) If the defendant is charged with a misdemeanor, the period shall be no longer than one year.
- + (D) Upon request, the court shall conduct a hearing to determine whether restitution, as defined in subdivision (f) of Section 1202.4, is owed to any victim as a result of the diverted offense and, if owed, order its payment during the period of diversion. However, a defendant’s inability to pay restitution due to indigence or mental disorder shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.
- + (2) “Qualified mental health expert” includes, but is not limited to, a psychiatrist, psychologist, a person described in Section 5751.2 of the Welfare and Institutions Code, or a person whose knowledge, skill, experience, training, or education qualifies them as an expert.
- + (g) If any of the following circumstances exists, the court shall, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether the criminal proceedings should be reinstated, whether the treatment should be modified, or whether the defendant should be conserved and referred to the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code:
  - + (1) The defendant is charged with an additional misdemeanor allegedly committed during the pretrial diversion and that reflects the defendant’s propensity for violence.
  - + (2) The defendant is charged with an additional felony allegedly committed during the pretrial diversion.
  - + (3) The defendant is engaged in criminal conduct rendering the defendant unsuitable for diversion.
  - + (4) Based on the opinion of a qualified mental health expert whom the court may deem appropriate, either of the following circumstances exists:
    - + (A) The defendant is performing unsatisfactorily in the assigned program.
    - + (B) The defendant is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code. A defendant shall only be conserved and referred to the conservatorship investigator pursuant to this finding.

+ (h) If the defendant has performed satisfactorily in diversion,  
 + at the end of the period of diversion, the court shall dismiss the  
 + defendant’s criminal charges that were the subject of the criminal  
 + proceedings at the time of the initial diversion. A court may  
 + conclude that the defendant has performed satisfactorily if the  
 + defendant has substantially complied with the requirements of  
 + diversion, has avoided significant new violations of law unrelated  
 + to the defendant’s mental health condition, and has a plan in place  
 + for long-term mental health care. If the court dismisses the charges,  
 + the clerk of the court shall file a record with the Department of  
 + Justice indicating the disposition of the case diverted pursuant to  
 + this section. Upon successful completion of diversion, if the court  
 + dismisses the charges, the arrest upon which the diversion was  
 + based shall be deemed never to have occurred, and the court shall  
 + order access to the record of the arrest restricted in accordance  
 + with Section 1001.9, except as specified in subdivisions (j) and  
 + (k). The defendant who successfully completes diversion may  
 + indicate in response to any question concerning the defendant’s  
 + prior criminal record that the defendant was not arrested or diverted  
 + for the offense, except as specified in subdivision (j).

+ (i) A record pertaining to an arrest resulting in successful  
 + completion of diversion, or any record generated as a result of the  
 + defendant’s application for or participation in diversion, shall not,  
 + without the defendant’s consent, be used in any way that could  
 + result in the denial of any employment, benefit, license, or  
 + certificate.

+ (j) The defendant shall be advised that, regardless of the  
 + defendant’s completion of diversion, both of the following apply:

+ (1) The arrest upon which the diversion was based may be  
 + disclosed by the Department of Justice to any peace officer  
 + application request and that, notwithstanding subdivision (i), this  
 + section does not relieve the defendant of the obligation to disclose  
 + the arrest in response to any direct question contained in any  
 + questionnaire or application for a position as a peace officer, as  
 + defined in Section 830.

+ (2) An order to seal records pertaining to an arrest made pursuant  
 + to this section has no effect on a criminal justice agency’s ability  
 + to access and use those sealed records and information regarding  
 + sealed arrests, as described in Section 851.92.



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+ (k) A finding that the defendant suffers from a mental disorder,  
+ any progress reports concerning the defendant’s treatment,  
+ including, but not limited to, any finding that the defendant be  
+ prohibited from owning or controlling a firearm because they are  
+ a danger to themselves or others pursuant to subdivision (m), or  
+ any other records related to a mental disorder that were created as  
+ a result of participation in, or completion of, diversion pursuant  
+ to this section or for use at a hearing on the defendant’s eligibility  
+ for diversion under this section may not be used in any other  
+ proceeding without the defendant’s consent, unless that information  
+ is relevant evidence that is admissible under the standards described  
+ in paragraph (2) of subdivision (f) of Section 28 of Article I of the  
+ California Constitution. However, when determining whether to  
+ exercise its discretion to grant diversion under this section, a court  
+ may consider previous records of participation in diversion under  
+ this section.

+ (l) The county agency administering the diversion, the  
+ defendant’s mental health treatment providers, the public guardian  
+ or conservator, and the court shall, to the extent not prohibited by  
+ federal law, have access to the defendant’s medical and  
+ psychological records, including progress reports, during the  
+ defendant’s time in diversion, as needed, for the purpose of  
+ providing care and treatment and monitoring treatment for  
+ diversion or conservatorship.

+ (m) (1) The prosecution may request an order from the court  
+ that the defendant be prohibited from owning or possessing a  
+ firearm until they successfully complete diversion because they  
+ are a danger to themselves or others pursuant to subdivision (i) of  
+ Section 8103 of the Welfare and Institutions Code.

+ (2) The prosecution shall bear the burden of proving, by clear  
+ and convincing evidence, both of the following are true:

+ (A) The defendant poses a significant danger of causing personal  
+ injury to themselves or another by having in their custody or  
+ control, owning, purchasing, possessing, or receiving a firearm.

+ (B) The prohibition is necessary to prevent personal injury to  
+ the defendant or any other person because less restrictive  
+ alternatives either have been tried and found to be ineffective or  
+ are inadequate or inappropriate for the circumstances of the  
+ defendant.

+ (3) (A) If the court finds that the prosecution has not met that  
+ burden, the court shall not order that the person is prohibited from  
+ having, owning, purchasing, possessing, or receiving a firearm.

+ (B) If the court finds that the prosecution has met the burden,  
+ the court shall order that the person is prohibited, and shall inform  
+ the person that they are prohibited, from owning or controlling a  
+ firearm until they successfully complete diversion because they  
+ are a danger to themselves or others.

+ (4) An order imposed pursuant to this subdivision shall be in  
+ effect until the defendant has successfully completed diversion or  
+ until their firearm rights are restored pursuant to paragraph (4) of  
+ subdivision (g) of Section 8103 of the Welfare and Institutions  
+ Code.

+ (n) This section shall become operative on July 1, 2024.

+ *SEC. 1.5. Section 1001.36 of the Penal Code is amended to  
+ read:*

+ 1001.36. (a) On an accusatory pleading alleging the  
+ commission of a misdemeanor or felony offense not set forth in  
+ subdivision (d), the court may, in its discretion, and after  
+ considering the positions of the defense and prosecution, grant  
+ pretrial diversion to a defendant pursuant to this section if the  
+ defendant satisfies the eligibility requirements for pretrial diversion  
+ set forth in subdivision (b) and the court determines that the  
+ defendant is suitable for that diversion under the factors set forth  
+ in subdivision (c).

+ (b) A defendant is eligible for pretrial diversion pursuant to this  
+ section if both of the following criteria are met:

+ (1) The defendant has been diagnosed with a mental disorder  
+ as identified in the most recent edition of the Diagnostic and  
+ Statistical Manual of Mental Disorders, including, but not limited  
+ to, bipolar disorder, schizophrenia, schizoaffective disorder, or  
+ post-traumatic stress disorder, but excluding antisocial personality  
+ disorder and pedophilia. Evidence of the defendant's mental  
+ disorder shall be provided by the defense and shall include a  
+ diagnosis or treatment for a diagnosed mental disorder within the  
+ last five years by a qualified mental health expert. In opining that  
+ a defendant suffers from a qualifying disorder, the qualified mental  
+ health expert may rely on an examination of the defendant, the  
+ defendant's medical records, arrest reports, or any other relevant  
+ evidence.

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+ (2) The defendant’s mental disorder was a significant factor in  
+ the commission of the charged offense. If the defendant has been  
+ diagnosed with a mental disorder, the court shall find that the  
+ defendant’s mental disorder was a significant factor in the  
+ commission of the offense unless there is clear and convincing  
+ evidence that it was not a motivating factor, causal factor, or  
+ contributing factor to the defendant’s involvement in the alleged  
+ offense. A court may consider any relevant and credible evidence,  
+ including, but not limited to, police reports, preliminary hearing  
+ transcripts, witness statements, statements by the defendant’s  
+ mental health treatment provider, medical records, records or  
+ reports by qualified medical experts, or evidence that the defendant  
+ displayed symptoms consistent with the relevant mental disorder  
+ at or near the time of the offense.

+ (c) For any defendant who satisfies the eligibility requirements  
+ in subdivision (b), the court must consider whether the defendant  
+ is suitable for pretrial diversion. A defendant is suitable for pretrial  
+ diversion if all of the following criteria are met:

+ (1) In the opinion of a qualified mental health expert, the  
+ defendant’s symptoms of the mental disorder causing, contributing  
+ to, or motivating the criminal behavior would respond to mental  
+ health treatment.

+ (2) The defendant consents to diversion and waives the  
+ defendant’s right to a speedy trial, ~~unless or~~ a defendant has been  
+ found to be an appropriate candidate for diversion in lieu of  
+ commitment pursuant to clause ~~(v) of subparagraph (B) of (iii) of~~  
+ ~~subparagraph (B) of, or clause (v) of subparagraph (C), of,~~  
+ paragraph (1) of subdivision (a) of Section ~~1370~~ 1370, or  
+ ~~subparagraph (A) of paragraph (1) of subdivision (b) of Section~~  
+ 1370.01 and, as a result of the defendant’s mental incompetence,  
+ cannot consent to diversion or give a knowing and intelligent  
+ waiver of the defendant’s right to a speedy trial.

+ (3) The defendant agrees to comply with treatment as a condition  
+ of diversion, ~~unless or~~ the defendant has been found to be an  
+ appropriate candidate for diversion in lieu of commitment for  
+ restoration of competency treatment pursuant to clause ~~of (iii) of~~  
+ ~~subparagraph (B) of, or clause (v) of subparagraph (C) of,~~  
+ paragraph (1) of subdivision (a) of Section 1370 or ~~subparagraph~~  
+ (A) of paragraph (1) of subdivision (b) of Section 1370.01 and, as

- + a result of the defendant’s mental incompetence, cannot agree to
- + comply with treatment.
- + (4) The defendant will not pose an unreasonable risk of danger
- + to public safety, as defined in Section 1170.18, if treated in the
- + community. The court may consider the opinions of the district
- + attorney, the defense, or a qualified mental health expert, and may
- + consider the defendant’s treatment plan, the defendant’s violence
- + and criminal history, the current charged offense, and any other
- + factors that the court deems appropriate.
- + (d) A defendant may not be placed into a diversion program,
- + pursuant to this section, for the following current charged offenses:
- + (1) Murder or voluntary manslaughter.
- + (2) An offense for which a person, if convicted, would be
- + required to register pursuant to Section 290, except for a violation
- + of Section 314.
- + (3) Rape.
- + (4) Lewd or lascivious act on a child under 14 years of age.
- + (5) Assault with intent to commit rape, sodomy, or oral
- + copulation, in violation of Section 220.
- + (6) Commission of rape or sexual penetration in concert with
- + another person, in violation of Section 264.1.
- + (7) Continuous sexual abuse of a child, in violation of Section
- + 288.5.
- + (8) A violation of subdivision (b) or (c) of Section 11418.
- + (e) At any stage of the proceedings, the court may require the
- + defendant to make a prima facie showing that the defendant will
- + meet the minimum requirements of eligibility for diversion and
- + that the defendant and the offense are suitable for diversion. The
- + hearing on the prima facie showing shall be informal and may
- + proceed on offers of proof, reliable hearsay, and argument of
- + counsel. If a prima facie showing is not made, the court may
- + summarily deny the request for diversion or grant any other relief
- + as may be deemed appropriate.
- + (f) As used in this chapter, the following terms have the
- + following meanings:
- + (1) “Pretrial diversion” means the postponement of prosecution,
- + either temporarily or permanently, at any point in the judicial
- + process from the point at which the accused is charged until
- + adjudication, to allow the defendant to undergo mental health
- + treatment, subject to all of the following:

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+ (A) (i) The court is satisfied that the recommended inpatient  
+ or outpatient program of mental health treatment will meet the  
+ specialized mental health treatment needs of the defendant.

+ (ii) The defendant may be referred to a program of mental health  
+ treatment utilizing existing inpatient or outpatient mental health  
+ resources. Before approving a proposed treatment program, the  
+ court shall consider the request of the defense, the request of the  
+ prosecution, the needs of the defendant, and the interests of the  
+ community. The treatment may be procured using private or public  
+ funds, and a referral may be made to a county mental health  
+ agency, existing collaborative courts, or assisted outpatient  
+ treatment only if that entity has agreed to accept responsibility for  
+ the treatment of the defendant, and mental health services are  
+ provided only to the extent that resources are available and the  
+ defendant is eligible for those services.

+ (iii) If the court refers the defendant to a county mental health  
+ agency pursuant to this section and the agency determines that it  
+ is unable to provide services to the defendant, the court shall accept  
+ a written declaration to that effect from the agency in lieu of  
+ requiring live testimony. That declaration shall serve only to  
+ establish that the program is unable to provide services to the  
+ defendant at that time and does not constitute evidence that the  
+ defendant is unqualified or unsuitable for diversion under this  
+ section.

+ (B) The provider of the mental health treatment program in  
+ which the defendant has been placed shall provide regular reports  
+ to the court, the defense, and the prosecutor on the defendant’s  
+ progress in treatment.

+ (C) The period during which criminal proceedings against the  
+ defendant may be diverted is limited as follows:

+ (i) If the defendant is charged with a felony, the period shall be  
+ no longer than two years.

+ (ii) If the defendant is charged with a misdemeanor, the period  
+ shall be no longer than one year.

+ (D) Upon request, the court shall conduct a hearing to determine  
+ whether restitution, as defined in subdivision (f) of Section 1202.4,  
+ is owed to any victim as a result of the diverted offense and, if  
+ owed, order its payment during the period of diversion. However,  
+ a defendant’s inability to pay restitution due to indigence or mental

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- + disorder shall not be grounds for denial of diversion or a finding
- + that the defendant has failed to comply with the terms of diversion.
- + (2) “Qualified mental health expert” includes, but is not limited
- + to, a psychiatrist, psychologist, a person described in Section
- + 5751.2 of the Welfare and Institutions Code, or a person whose
- + knowledge, skill, experience, training, or education qualifies them
- + as an expert.
- + (g) If any of the following circumstances exists, the court shall,
- + after notice to the defendant, defense counsel, and the prosecution,
- + hold a hearing to determine whether the criminal proceedings
- + should be reinstated, whether the treatment should be modified,
- + or whether the defendant should be conserved and referred to the
- + conservatorship investigator of the county of commitment to initiate
- + conservatorship proceedings for the defendant pursuant to Chapter
- + 3 (commencing with Section 5350) of Part 1 of Division 5 of the
- + Welfare and Institutions Code:
- + (1) The defendant is charged with an additional misdemeanor
- + allegedly committed during the pretrial diversion and that reflects
- + the defendant’s propensity for violence.
- + (2) The defendant is charged with an additional felony allegedly
- + committed during the pretrial diversion.
- + (3) The defendant is engaged in criminal conduct rendering the
- + defendant unsuitable for diversion.
- + (4) Based on the opinion of a qualified mental health expert
- + whom the court may deem appropriate, either of the following
- + circumstances exists:
- + (A) The defendant is performing unsatisfactorily in the assigned
- + program.
- + (B) The defendant is gravely disabled, as defined in
- + subparagraph (B) of paragraph (1) of subdivision (h) of Section
- + 5008 of the Welfare and Institutions Code. A defendant shall only
- + be conserved and referred to the conservatorship investigator
- + pursuant to this finding.
- + (h) If the defendant has performed satisfactorily in diversion,
- + at the end of the period of diversion, the court shall dismiss the
- + defendant’s criminal charges that were the subject of the criminal
- + proceedings at the time of the initial diversion. A court may
- + conclude that the defendant has performed satisfactorily if the
- + defendant has substantially complied with the requirements of
- + diversion, has avoided significant new violations of law unrelated

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- + to the defendant’s mental health condition, and has a plan in place
- + for long-term mental health care. If the court dismisses the charges,
- + the clerk of the court shall file a record with the Department of
- + Justice indicating the disposition of the case diverted pursuant to
- + this section. Upon successful completion of diversion, if the court
- + dismisses the charges, the arrest upon which the diversion was
- + based shall be deemed never to have occurred, and the court shall
- + order access to the record of the arrest restricted in accordance
- + with Section 1001.9, except as specified in subdivisions (j) and
- + (k). The defendant who successfully completes diversion may
- + indicate in response to any question concerning the defendant’s
- + prior criminal record that the defendant was not arrested or diverted
- + for the offense, except as specified in subdivision (j).
- + (i) A record pertaining to an arrest resulting in successful
- + completion of diversion, or any record generated as a result of the
- + defendant’s application for or participation in diversion, shall not,
- + without the defendant’s consent, be used in any way that could
- + result in the denial of any employment, benefit, license, or
- + certificate.
- + (j) The defendant shall be advised that, regardless of the
- + defendant’s completion of diversion, both of the following apply:
- + (1) The arrest upon which the diversion was based may be
- + disclosed by the Department of Justice to any peace officer
- + application request and that, notwithstanding subdivision (i), this
- + section does not relieve the defendant of the obligation to disclose
- + the arrest in response to any direct question contained in any
- + questionnaire or application for a position as a peace officer, as
- + defined in Section 830.
- + (2) An order to seal records pertaining to an arrest made pursuant
- + to this section has no effect on a criminal justice agency’s ability
- + to access and use those sealed records and information regarding
- + sealed arrests, as described in Section 851.92.
- + (k) A finding that the defendant suffers from a mental disorder,
- + any progress reports concerning the defendant’s treatment,
- + including, but not limited to, any finding that the defendant be
- + prohibited from owning or controlling a firearm because they are
- + a danger to themselves or others pursuant to subdivision (m), or
- + any other records related to a mental disorder that were created as
- + a result of participation in, or completion of, diversion pursuant
- + to this section or for use at a hearing on the defendant’s eligibility

+ for diversion under this section may not be used in any other  
+ proceeding without the defendant’s consent, unless that information  
+ is relevant evidence that is admissible under the standards described  
+ in paragraph (2) of subdivision (f) of Section 28 of Article I of the  
+ California Constitution. However, when determining whether to  
+ exercise its discretion to grant diversion under this section, a court  
+ may consider previous records of participation in diversion under  
+ this section.

+ (l) The county agency administering the diversion, the  
+ defendant’s mental health treatment providers, the public guardian  
+ or conservator, and the court shall, to the extent not prohibited by  
+ federal law, have access to the defendant’s medical and  
+ psychological records, including progress reports, during the  
+ defendant’s time in diversion, as needed, for the purpose of  
+ providing care and treatment and monitoring treatment for  
+ diversion or conservatorship.

+ (m) (1) The prosecution may request an order from the court  
+ that the defendant be prohibited from owning or possessing a  
+ firearm until they successfully complete diversion because they  
+ are a danger to themselves or others pursuant to subdivision (i) of  
+ Section 8103 of the Welfare and Institutions Code.

+ (2) The prosecution shall bear the burden of proving, by clear  
+ and convincing evidence, both of the following are true:

+ (A) The defendant poses a significant danger of causing personal  
+ injury to themselves or another by having in their custody or  
+ control, owning, purchasing, possessing, or receiving a firearm.

+ (B) The prohibition is necessary to prevent personal injury to  
+ the defendant or any other person because less restrictive  
+ alternatives either have been tried and found to be ineffective or  
+ are inadequate or inappropriate for the circumstances of the  
+ defendant.

+ (3) (A) If the court finds that the prosecution has not met that  
+ burden, the court shall not order that the person is prohibited from  
+ having, owning, purchasing, possessing, or receiving a firearm.

+ (B) If the court finds that the prosecution has met the burden,  
+ the court shall order that the person is prohibited, and shall inform  
+ the person that they are prohibited, from owning or controlling a  
+ firearm until they successfully complete diversion because they  
+ are a danger to themselves or others.



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+ (4) An order imposed pursuant to this subdivision shall be in  
+ effect until the defendant has successfully completed diversion or  
+ until their firearm rights are restored pursuant to paragraph (4) of  
+ subdivision (g) of Section 8103 of the Welfare and Institutions  
+ Code.

+ ~~(n) This section shall become operative on July 1, 2024.~~

Page 9 18 SEC. 2. Section 1370.01 of the Penal Code is amended to read:

19 1370.01. (a) If the defendant is found mentally competent, the  
20 criminal process shall resume, and the trial on the offense charged  
21 or hearing on the alleged violation shall proceed.

22 (b) (1) (A) If the defendant is found mentally incompetent, the  
23 trial, judgment, or hearing on the alleged violation shall be  
24 suspended and the court shall conduct a hearing, pursuant to  
25 Chapter 2.8A (commencing with Section 1001.35) of Title 6, and,  
26 if the court deems the defendant eligible, grant diversion pursuant  
27 to Section 1001.36 for a period not to exceed one year from the  
28 date the individual is accepted into diversion or the maximum term  
29 of imprisonment provided by law for the most serious offense  
30 charged in the misdemeanor complaint, whichever is shorter.

31 (B) Notwithstanding any other law, including Section 23640 of  
32 the Vehicle Code, a misdemeanor offense for which a defendant  
33 may be placed in a mental health diversion program in accordance  
34 with this section includes a misdemeanor violation of Section  
35 23152 or 23153 of the Vehicle Code. However, this section does  
36 not limit the authority of the Department of Motor Vehicles to take  
37 administrative action concerning the driving privileges of a person  
38 arrested for a violation of Section 23152 or 23153 of the Vehicle  
39 Code.

Page 10 1 (2) The hearing shall be held no later than 30 days after the  
2 finding of incompetence. If the hearing is delayed beyond 30 days,  
3 the court shall order the defendant to be released on their own  
4 recognizance pending the hearing.

5 (3) If the defendant performs satisfactorily on diversion pursuant  
6 to this section, at the end of the period of diversion, the court shall  
7 dismiss the criminal charges that were the subject of the criminal  
8 proceedings at the time of the initial diversion.

9 (4) If the court finds the defendant ineligible for diversion based  
10 on the circumstances set forth in subdivision (b), (c), (d), or (g) of  
11 Section 1001.36, the court shall, after notice to the defendant,

**PROPOSED AMENDMENTS**

Page 10 12 defense counsel, and the prosecution, hold a hearing to determine  
 13 which one of the following actions the court will take:  
 14 (A) Order modification of an existing mental health diversion  
 15 treatment plan in accordance with a recommendation from the  
 16 treatment provider.  
 17 (B) Refer the defendant to assisted outpatient treatment pursuant  
 18 to Section 5346 of the Welfare and Institutions Code. A referral  
 19 to assisted outpatient treatment may only occur in a county where  
 20 services are available pursuant to Section 5348 of the Welfare and  
 21 Institutions Code, and the agency agrees to accept responsibility  
 22 for treatment of the defendant. A hearing to determine eligibility  
 23 for assisted outpatient treatment shall be held within 45 days after  
 24 the finding of incompetency. If the hearing is delayed beyond 45  
 25 days, the court shall order the defendant, if confined in county jail,  
 26 to be released on their own recognizance pending that hearing. If  
 27 the defendant is accepted into assisted outpatient treatment, *and*  
 28 *completes the assisted outpatient treatment program or participates*  
 + *in a minimum of six months of the assisted outpatient treatment*  
 29 *program* the charges shall be dismissed pursuant to Section 1385.  
 + *This section does not alter the confidential nature of assisted*  
 + *outpatient treatment.*  
 30 (C) Refer the defendant to the county conservatorship  
 31 investigator in the county of commitment for possible  
 32 conservatorship proceedings for the defendant pursuant to Chapter  
 33 3 (commencing with Section 5350) of Part 1 of Division 5 of the  
 34 Welfare and Institutions Code. A defendant shall only be referred  
 35 to the conservatorship investigator if, based on the opinion of a  
 36 qualified mental health expert, the defendant appears to be gravely  
 37 disabled, as defined in subparagraph (A) of paragraph (1) of  
 38 subdivision (h) of Section 5008 of the Welfare and ~~Institution~~  
 39 *Institutions* Code. Any hearings required in the conservatorship  
 40 proceedings shall be held in the superior court in the county of  
 Page 11 1 commitment. The court shall transmit a copy of the order directing  
 2 initiation of conservatorship proceedings to the county mental  
 3 health director or the director’s designee and shall notify the county  
 4 mental health director or their designee of the outcome of the  
 5 proceedings. Before establishing a conservatorship, the public  
 6 guardian shall investigate all available alternatives to  
 7 conservatorship pursuant to Section 5354 of the Welfare and  
 8 Institutions Code. If a petition is not filed within 30 days of the

**Amendment 3**

**Amendment 4**

**Amendment 5**

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Page 11 9 referral, the court shall order the defendant, if confined in county  
10 jail, to be released on their own recognizance pending  
13 conservatorship proceedings. ~~The charges shall be dismissed~~  
14 ~~pursuant to Section 1385 upon the filing of either a temporary or~~  
15 ~~permanent conservatorship petition.~~ *If the outcome of the*  
+ *conservatorship proceedings results in the establishment of a*  
+ *temporary or permanent conservatorship, the charges shall be*  
+ *dismissed pursuant to Section 1385. This section does not alter*  
+ *the confidential nature of conservatorship proceedings.*

**Amendment 6**

16 (D) Refer the defendant to the CARE program pursuant to  
17 Section 5978 of the Welfare and Institutions Code. A hearing to  
18 determine eligibility for CARE shall be held within 14 court days  
19 after the date on which the petition for the referral is filed. If the  
20 hearing is delayed beyond 14 court days, the court shall order the  
21 defendant, if confined in county jail, to be released on their own  
22 recognizance pending that hearing. If the defendant is accepted  
23 into CARE, *and completes the CARE program or participates in*  
+ *a minimum of one year of the CARE program,* the charges shall  
24 be dismissed pursuant to Section 1385. *This section does not alter*  
+ *the confidential nature of CARE program proceedings.*

**Amendment 7**

**Amendment 8**

25 (c) If the defendant is found mentally incompetent on a  
26 misdemeanor offense and felony offense and committed to  
27 treatment pursuant to Section 1370 or this section, the misdemeanor  
28 offense shall be dismissed.

30 (d) It is the intent of the Legislature that a defendant subject to  
31 the terms of this section receive mental health treatment in a  
32 treatment facility and not a jail. A term of four days will be deemed  
33 to have been served for every two days spent in actual custody  
34 against the maximum term of ~~diversion~~. *treatment pursuant to*  
+ *subparagraphs (B) and (D) of paragraph (4) of subdivision (b)*  
+ *and subparagraph (A) of paragraph (1) of subdivision (b). A*  
35 defendant not in actual custody shall otherwise receive day for day  
36 credit against the term of ~~diversion~~ *treatment* from the date the  
37 defendant is accepted into ~~diversion~~. *treatment.* "Actual custody"  
+ has the same meaning as in Section 4019.

**Amendment 9**

**Amendments 10 & 11**

39 (e) This section shall apply only as provided in subdivision (b)  
40 of Section 1367.

**Amendment 12**

Page 12 1 (f) ~~Nothing~~ *It is the intent of the Legislature that the court shall*  
+ *consider all treatment options as provided in this section prior to*

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+ *dismissing criminal charges. However, nothing in this section*  
2 *limits a court’s discretion pursuant to Section 1385.*

+ *SEC. 3. Section 5985 of the Welfare and Institutions Code is*  
+ *amended to read:*

+ 5985. (a) (1) The department shall develop, in consultation  
+ with county behavioral health agencies, other relevant state or  
+ local government entities, disability rights groups, individuals with  
+ lived experience, families, counsel, racial justice experts, and other  
+ appropriate stakeholders, an annual CARE Act report. The  
+ department shall post the annual report on its internet website.

+ (2) *The department shall specify the length of time, following*  
+ *the conclusion of CARE program services, that data on former*  
+ *participants shall be reported pursuant to subdivision (e).*

+ (b) County behavioral health agencies and any other state or  
+ local governmental entity, as identified by the department, shall  
+ provide data related to the CARE Act participants, services, and  
+ supports to the department. The department shall determine the  
+ data measures and specifications, and shall publish them via  
+ guidance issues pursuant to subdivision (b) of Section 5984.

+ (c) Each county behavioral health department and any other  
+ state and local governmental entity, as identified by the department,  
+ shall provide the required data to the department, in a format and  
+ frequency as directed by the department.

+ (d) (1) In consultation with the Judicial Council, the department  
+ shall develop an annual reporting schedule for the submission of  
+ CARE Act data from the trial courts.

+ (2) Data from the trial courts shall be submitted to the Judicial  
+ Council, which shall aggregate the data and submit it to the  
+ department consistent with the reporting schedule developed  
+ pursuant to paragraph (1).

+ (3) On an annual basis to be determined by the Judicial Council  
+ and consistent with the annual reporting schedule developed  
+ pursuant to paragraph (1), the trial courts shall report to the Judicial  
+ Council the following data related to CARE Act petitions:

+ (A) The number of petitions submitted pursuant to Section 5975.

+ (B) The number of initial appearances on the petition set  
+ pursuant to paragraph (3) of subdivision (a) of Section 5977.

+ (C) The total number of hearings held pursuant to this part.

+ (D) *The total number of CARE plans ordered and CARE*  
+ *agreements approved.*

**Amendment 13**

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- + (E) *The total number of petitions dismissed.*
- + (e) The annual report shall include process measures to examine the scope of impact and monitor the performance of CARE Act model implementation. The report shall ~~include, at a minimum, all of the following:~~ *include trial court petition data pursuant to paragraph (3) of subdivision (d) and, to the extent administrative data is available, all of the following information compiled from county behavioral health departments:*
  - + (1) The demographics of *all* participants, including, but not limited to, the age, sex, race, ethnicity, disability, languages spoken, sexual orientation, gender identity, housing status, veteran status, immigration status, health coverage status, including Medi-Cal enrollment status, ~~and county of residence, to the extent statistically relevant data is available.~~ *information related to CARE criteria outlined in Section 5972, and county of residence.*
  - + (2) *Information about petitioners, including, but not limited to, relationship to participant.*
  - + ~~(2)~~
  - + (3) The services and supports ordered, the services and supports provided, and the services and supports ordered but not ~~provided.~~ *provided to all active and former participants.*
  - + ~~(3)~~
  - + (4) The housing placements of ~~all participants during the program and at least one year following the termination of the CARE plan, to the extent administrative data are available to report the latter.~~ *active and former participants.* Placements include, but are not limited to, transition to a higher level of care, independent living in the person’s own house or apartment, community-based housing, community-based housing with services, shelter, and no housing.
  - + ~~(4)~~
  - + (5) ~~Treatments continued and terminated at least one year following termination of the CARE plan, to the extent administrative data are available.~~ *of all active and former participants.*
  - + ~~(5)~~
  - + (6) Substance use disorder rates and rates of treatment among active CARE plan participants and former participants at least one year following ~~termination of the CARE plan, to the extent~~

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- + ~~administrative data are available to report the latter. *all active and former participants.*~~
- + ~~(6)~~
- + ~~(7) Detentions and other Lanterman-Petris-Short Act involvement for participants with an active CARE plan and for former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter. *all active and former participants.*~~
- + ~~(7)~~
- + ~~(8) Criminal justice involvement of participants with an active CARE plan and for former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter. *all active and former participants.*~~
- + ~~(8) Deaths among active participants and for former participants at least one year following termination of the CARE plan, along with causes of death, to the extent administrative data are available.~~
- + ~~(9) Deaths among all active and former participants, along with the cause of death.~~
- + ~~(10) Type, format, and frequency of outreach and engagement activities provided by a county behavioral health agency to engage an individual who is the subject of a referral or petition, including interactions about potential eligible participants and outcomes of these efforts.~~
- + ~~(11) The number, rates, and trends of contacts made to the county behavioral health agency about individuals potentially eligible for the CARE process, including outcomes of those contacts.~~
- + ~~(12) The number, rates, and source of referrals to county behavioral health departments, including, but not limited to, referrals resulting in a petition or reason for not filing a petition, length of time from referral to outcome, and services provided for those engaged voluntarily.~~
- + ~~(9)~~
- + ~~(13) The number, rates, and trends of petitions resulting in dismissal and hearings.~~
- + ~~(14) Information on petition dispositions, including, but not limited to, disposition recommendations and the number of days from petition to disposition.~~
- + ~~(10)~~
- + ~~(15) The number, rates, and trends of supporters.~~

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- + ~~(11)~~
- + (16) The number, rates, and trends of ~~voluntary approved~~ CARE agreements.
- + ~~(12)~~
- + (17) The number, rates, and trends of ordered and completed CARE plans.
- + ~~(13)~~
- + (18) Statistics on the services and ~~supports included in CARE plans~~, *supports*, including court orders for stabilizing medications.
- + ~~(14)~~
- + (19) The rates of adherence to medication.
- + ~~(15)~~
- + (20) The number, rates, and trends of psychiatric advance directives created for ~~participants with active CARE plans~~: *active participants*.
- + ~~(16)~~
- + (21) The number, rates, and trends of developed graduation plans.
- + ~~(17)~~
- + (22) Outcome measures to assess the effectiveness of the CARE Act model, such as improvement in housing status, including gaining and maintaining housing, reductions in emergency department visits and inpatient hospitalizations, reductions in law enforcement encounters and incarceration, reductions in involuntary treatment and conservatorship, and reductions in substance use.
- + ~~(18)~~
- + (23) A health equity assessment of the CARE Act to identify demographic disparities based on demographic data in paragraph (1), and to inform disparity reduction efforts.
- + (f) (1) The report shall include, at a minimum, information on the effectiveness of the CARE Act model in improving outcomes and reducing disparities, homelessness, criminal justice involvement, conservatorships, and hospitalization of participants. The annual report shall include process measures to examine the scope of impact and monitor the performance of CARE Act model implementation, such as the number and source of petitions filed for CARE Court; the number, rates, and trends of petitions resulting in dismissal and hearings; the number, rates, and trends of supporters; the number, rates, and trends of voluntary CARE agreements; the number, rates, and trends of ordered and completed

+ CARE plans; the services and supports included in CARE plans,  
 + including court orders for stabilizing medications; the rates of  
 + adherence to medication; the number, rates, and trends of  
 + psychiatric advance directives; and the number, rates, and trends  
 + of developed graduation plans. The report shall include outcome  
 + measures to assess the effectiveness of the CARE Act model, such  
 + as improvement in housing status, including gaining and  
 + maintaining housing; reductions in emergency department visits  
 + and inpatient hospitalizations; reductions in law enforcement  
 + encounters and incarceration; reductions in involuntary treatment  
 + and conservatorship; and reductions in substance use. The annual  
 + report shall examine these data through the lens of health equity  
 + to identify racial, ethnic, and other demographic disparities and  
 + inform disparity reduction efforts.

+ (2) Data shall be stratified by age, sex, race, ethnicity, languages  
 + spoken, disability, sexual orientation, gender identity, housing  
 + status, veteran status, immigration status, health coverage source,  
 + and county, to the extent statistically relevant data is available.

+ ~~Information released or published pursuant to this section shall  
 + not contain data that may lead to the identification of respondents  
 + or information that would otherwise allow an individual to link  
 + the published information to a specific person. Data published by  
 + the department shall be deidentified in compliance with Section  
 + 164.514(a) and (b) of Title 45 of the Code of Federal Regulations.~~

+ (g) The outcomes shall be presented to relevant state oversight  
 + bodies, including, but not limited to, the California Interagency  
 + Council on Homelessness.

+ (h) (1) *Beginning in 2026 and annually thereafter, the  
 + department shall publish on its internet website a report of  
 + quantitative, deidentified information concerning the operation of  
 + this part.*

+ (2) *Based on information provided to the department in a form  
 + and manner specified by the department, in consultation with the  
 + Judicial Council, in accordance with subdivision (b) of Section  
 + 5984, the report shall include all of the following information,  
 + aggregated by county, compiled from county behavioral health  
 + departments and the department:*

+ (A) *The number of contacts to the county behavioral health  
 + department about individuals potentially eligible for the CARE  
 + process, including outcome of contacts.*



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- + (B) *The number of CARE petitions filed with the superior court.*
- + (C) *The petitioner type for each petition filed with the superior court.*
- + (D) *Disposition of each petition filed with the superior court.*
- + (E) *The number of days between filing each petition and the petition’s disposition.*
- + (F) *Demographic information of each CARE Act participant or potentially eligible CARE Act participant including, but not limited to, gender, age ranges, ethnicity, and housing status.*
- + (G) *The number of referrals of individuals in conservatorship proceedings made pursuant to subdivision (a) of Section 5978, including the disposition of each referral.*
- + (H) *The number of referrals made pursuant to Section 5978.1, including the disposition of each referral.*
- + (i) *Information publicly released or published pursuant to this part shall not contain data that may lead to the identification of participants or petitioners or information that would otherwise allow an individual to link the published information to a specific person. Data published by the department shall be deidentified in compliance with Section 164.514(a) and (b) of Title 45 of the Code of Federal Regulations.*
- + **SEC. 3.5.** *Section 5985 of the Welfare and Institutions Code is amended to read:*
- + **5985.** (a) (1) *The department shall develop, in consultation with county behavioral health agencies, other relevant state or local government entities, disability rights groups, individuals with lived experience, families, counsel, racial justice experts, and other appropriate stakeholders, an annual CARE Act report. The department shall post the annual report on its internet website.*
- + (2) *The department shall specify the length of time, following the conclusion of CARE program services, that data on former participants shall be reported pursuant to subdivision (e).*
- + (b) *County behavioral health agencies and any other state or local governmental entity, as identified by the department, shall provide data related to the CARE Act participants, services, and supports to the department. The department shall determine the data measures and specifications, and shall publish them via guidance issues pursuant to subdivision (b) of Section 5984.*
- + (c) *Each county behavioral health department and any other state and local governmental entity, as identified by the department,*

- + shall provide the required data to the department, in a format and frequency as directed by the department.
- + (d) (1) In consultation with the Judicial Council, the department shall develop an annual reporting schedule for the submission of CARE Act data from the trial courts.
- + (2) Data from the trial courts shall be submitted to the Judicial Council, which shall aggregate the data and submit it to the department consistent with the reporting schedule developed pursuant to paragraph (1).
- + (3) On an annual basis to be determined by the Judicial Council and consistent with the annual reporting schedule developed pursuant to paragraph (1), the trial courts shall report to the Judicial Council the following data related to CARE Act petitions:
  - + (A) The number of petitions submitted pursuant to Section 5975.
  - + (B) The number of initial appearances on the petition set pursuant to paragraph (3) of subdivision (a) of Section 5977.
  - + (C) The total number of hearings held pursuant to this part.
  - + (D) *The total number of CARE plans ordered and CARE agreements approved.*
  - + (E) *The total number of petitions dismissed.*
- + (e) The annual report shall include process measures to examine the scope of impact and monitor the performance of CARE Act model implementation. The report shall ~~include, at a minimum, all of the following:~~ *include trial court petition data pursuant to paragraph (3) of subdivision (d) and, to the extent administrative data is available, all of the following information compiled from county behavioral health departments:*
  - + (1) The demographics of *all* participants, including, but not limited to, the age, sex, race, ethnicity, disability, languages spoken, sexual orientation, gender identity, housing status, veteran status, immigration status, health coverage status, including Medi-Cal enrollment status, ~~and county of residence, to the extent statistically relevant data is available.~~ *information related to CARE criteria outlined in Section 5972, and county of residence.*
  - + (2) *Information about petitioners, including, but not limited to, relationship to participant.*
  - + (2)
  - + (3) The services and supports ordered, the services and supports provided, and the services and supports ordered but not ~~provided.~~ *provided to all active and former participants.*

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- + (3)
- + (4) The housing placements of all ~~participants during the program and at least one year following the termination of the CARE plan, to the extent administrative data are available to report the latter.~~ *active and former participants*. Placements include, but are not limited to, transition to a higher level of care, independent living in the person's own house or apartment, community-based housing, community-based housing with services, shelter, and no housing.
- + (4)
- + (5) ~~Treatments continued and terminated at least one year following termination of the CARE plan, to the extent administrative data are available.~~ *of all active and former participants.*
- + (5)
- + (6) ~~Substance use disorder rates and rates of treatment among active CARE plan participants and former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter.~~ *all active and former participants.*
- + (6)
- + (7) ~~Detentions and other Lanterman-Petris-Short Act involvement for participants with an active CARE plan and for former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter.~~ *all active and former participants.*
- + (7)
- + (8) ~~Criminal justice involvement of participants with an active CARE plan and for former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter.~~ *all active and former participants.*
- + (8) ~~Deaths among active participants and for former participants at least one year following termination of the CARE plan, along with causes of death, to the extent administrative data are available.~~
- + (9) *Deaths among all active and former participants, along with the cause of death.*
- + (10) *Type, format, and frequency of outreach and engagement activities provided by a county behavioral health agency to engage an individual who is the subject of a referral or petition, including*

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- + *interactions about potential eligible participants and outcomes of these efforts.*
- + *(11) The number, rates, and trends of contacts made to the county behavioral health agency about individuals potentially eligible for the CARE process, including outcomes of those contacts.*
- + *(12) The number, rates, and source of referrals to county behavioral health departments, including, but not limited to, referrals resulting in a petition or reason for not filing a petition, length of time from referral to outcome, and services provided for those engaged voluntarily.*
- + ~~(9)~~
- + *(13) The number, rates, and trends of petitions resulting in dismissal and hearings.*
- + *(14) Information on petition dispositions, including, but not limited to, disposition recommendations and the number of days from petition to disposition.*
- + ~~(10)~~
- + *(15) The number, rates, and trends of supporters.*
- + ~~(11)~~
- + *(16) The number, rates, and trends of ~~voluntary~~ approved CARE agreements.*
- + ~~(12)~~
- + *(17) The number, rates, and trends of ordered and completed CARE plans.*
- + ~~(13)~~
- + *(18) Statistics on the services and ~~supports~~ included in CARE plans, ~~supports~~, including court orders for stabilizing medications.*
- + ~~(14)~~
- + *(19) The rates of adherence to medication.*
- + ~~(15)~~
- + *(20) The number, rates, and trends of psychiatric advance directives created for ~~participants with active CARE plans~~: *active participants*.*
- + ~~(16)~~
- + *(21) The number, rates, and trends of developed graduation plans.*
- + ~~(17)~~
- + *(22) Outcome measures to assess the effectiveness of the CARE Act model, such as improvement in housing status, including*

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- + gaining and maintaining housing, reductions in emergency
- + department visits and inpatient hospitalizations, reductions in law
- + enforcement encounters and incarceration, reductions in involuntary
- + treatment and conservatorship, and reductions in substance use.
- + (18)
- + (23) A health equity assessment of the CARE Act to identify
- + demographic disparities based on demographic data in paragraph
- + (1), and to inform disparity reduction efforts.
- + (24) *Data regarding referrals made pursuant to Section 5978.1,*
- + *as part of the CARE Act.*
- + (f) (1) The report shall include, at a minimum, information on
- + the effectiveness of the CARE Act model in improving outcomes
- + and reducing disparities, homelessness, criminal justice
- + involvement, conservatorships, and hospitalization of participants.
- + The annual report shall include process measures to examine the
- + scope of impact and monitor the performance of CARE Act model
- + implementation, such as the number and source of petitions filed
- + for CARE Court; the number, rates, and trends of petitions resulting
- + in dismissal and hearings; the number, rates, and trends of
- + supporters; the number, rates, and trends of voluntary CARE
- + agreements; the number, rates, and trends of ordered and completed
- + CARE plans; the services and supports included in CARE plans,
- + including court orders for stabilizing medications; the rates of
- + adherence to medication; the number, rates, and trends of
- + psychiatric advance directives; and the number, rates, and trends
- + of developed graduation plans. The report shall include outcome
- + measures to assess the effectiveness of the CARE Act model, such
- + as improvement in housing status, including gaining and
- + maintaining housing; reductions in emergency department visits
- + and inpatient hospitalizations; reductions in law enforcement
- + encounters and incarceration; reductions in involuntary treatment
- + and conservatorship; and reductions in substance use. The annual
- + report shall examine these data through the lens of health equity
- + to identify racial, ethnic, and other demographic disparities and
- + inform disparity reduction efforts.
- + (2) Data shall be stratified by age, sex, race, ethnicity, languages
- + spoken, disability, sexual orientation, gender identity, housing
- + status, veteran status, immigration status, health coverage source,
- + and county, to the extent statistically relevant data is available.
- + ~~Information released or published pursuant to this section shall~~

+ not contain data that may lead to the identification of respondents  
+ or information that would otherwise allow an individual to link  
+ the published information to a specific person. Data published by  
+ the department shall be deidentified in compliance with Section  
+ 164.514(a) and (b) of Title 45 of the Code of Federal Regulations.

+ (g) The outcomes shall be presented to relevant state oversight  
+ bodies, including, but not limited to, the California Interagency  
+ Council on Homelessness.

+ (h) (1) *Beginning in 2026 and annually thereafter, the*  
+ *department shall publish on its internet website a report of*  
+ *quantitative, deidentified information concerning the operation of*  
+ *this part.*

+ (2) *Based on information provided to the department in a form*  
+ *and manner specified by the department, in consultation with the*  
+ *Judicial Council, in accordance with subdivision (b) of Section*  
+ *5984, the report shall include all of the following information,*  
+ *aggregated by county, compiled from county behavioral health*  
+ *departments and the department:*

+ (A) *The number of contacts to the county behavioral health*  
+ *department about individuals potentially eligible for the CARE*  
+ *process, including outcome of contacts.*

+ (B) *The number of CARE petitions filed with the superior court.*

+ (C) *The petitioner type for each petition filed with the superior*  
+ *court.*

+ (D) *Disposition of each petition filed with the superior court.*

+ (E) *The number of days between filing each petition and the*  
+ *petition’s disposition.*

+ (F) *Demographic information of each CARE Act participant or*  
+ *potentially eligible CARE Act participant including, but not limited*  
+ *to, gender, age ranges, ethnicity, and housing status.*

+ (G) *The number of referrals of individuals in conservatorship*  
+ *proceedings made pursuant to subdivision (a) of Section 5978,*  
+ *including the disposition of each referral.*

+ (H) *The number of referrals made pursuant to Section 5978.1,*  
+ *including the disposition of each referral.*

+ (i) *Information publicly released or published pursuant to this*  
+ *part shall not contain data that may lead to the identification of*  
+ *participants or petitioners or information that would otherwise*  
+ *allow an individual to link the published information to a specific*  
+ *person. Data published by the department shall be deidentified in*

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+ *compliance with Section 164.514(a) and (b) of Title 45 of the Code of Federal Regulations.*

+ *SEC. 4. (a) Section 1.5 of this bill incorporates amendments to Section 1001.36 of the Penal Code proposed by both this bill and Senate Bill 1323. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 1001.36 of the Penal Code, and (3) this bill is enacted after Senate Bill 1323, in which case Section 1 of this bill shall not become operative.*

+ *(b) Section 3.5 of this bill incorporates amendments to Section 5985 of the Welfare and Institutions Code proposed by this bill and Senate Bill 42. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 5985 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 42, in which case Section 5985 of the Welfare and Institutions Code, as amended by Senate Bill 42, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.*

+ *SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

+ *However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

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# PROPOSED AMENDMENTS

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PROPOSED AMENDMENTS TO SENATE BILL NO. 1420

AMENDED IN ASSEMBLY JULY 8, 2024

AMENDED IN ASSEMBLY JUNE 24, 2024

AMENDED IN SENATE MAY 16, 2024

AMENDED IN SENATE APRIL 30, 2024

AMENDED IN SENATE APRIL 8, 2024

AMENDED IN SENATE MARCH 20, 2024



RN2421531

**SENATE BILL**

**No. 1420**

**Introduced by Senators Caballero, Archuleta, Dodd, and Newman**  
*(Coauthor: Assembly Member Blanca Rubio)*

**Amendment 1**

February 16, 2024

An act to amend Sections 21189.81 and 25545 of the Public Resources Code, relating to energy.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1420, as amended, Caballero. Hydrogen production facilities: certification and environmental review.

(1) The California Environmental Quality Act (CEQA) requires preparation of specified documentation before a public agency approves or carries out certain projects. Existing law authorizes the Governor to certify energy infrastructure projects meeting specified requirements for streamlining benefits related to CEQA. Existing law defines "energy infrastructure project" for these purposes to include eligible renewable energy resources under the California Renewables Portfolio Standard Program, excluding resources that use biomass fuels. Existing law

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expressly excludes from that definition of “energy infrastructure project” any project using hydrogen as a fuel.

This bill would instead exclude from the definition of “energy infrastructure project” for purposes of the CEQA streamlining benefits eligible renewable energy resources under the California Renewables Portfolio Standard Program that combust, rather than use, biomass fuels. The bill would include hydrogen production facilities and associated onsite storage and processing facilities that ~~meet specified conditions, including that the facilities have received funding from the state or federal government on or before January 1, 2032, and do not use fossil fuel as a feedstock or energy source, do not derive hydrogen from a fossil fuel feedstock and that receive funding from specified state and federal programs~~ within the definition of “energy infrastructure project.” Because the bill would authorize the Governor to certify additional projects, thereby increasing the duties on lead agencies in conducting the environmental review of energy infrastructure projects certified by the Governor, this bill would impose a state-mandated local program.

(2) Existing law authorizes persons proposing specified electrical generation, electrical transmission, and energy storage projects to apply, on or before June 30, 2029, to the State Energy Resources Conservation and Development Commission (Energy Commission) to certify sites and related facilities as environmental leadership development projects, as specified. Existing law makes a site and related facility certified by the Energy Commission subject to the streamlining benefits related to CEQA with no further action by the applicant or the Governor. Under existing law, the Energy Commission’s certification is in lieu of any permit, certificate, or similar document required by any governmental agency and supersedes any applicable statute, ordinance, or regulation, except as specified.

This bill would expand the types of facilities eligible to be certified as environmental leadership development projects by the Energy Commission to include hydrogen production facilities and associated onsite storage and processing facilities that ~~meet specified conditions, including that the facilities have received funding from the state or federal government on or before January 1, 2032, and do not use fossil fuel as a feedstock or energy source. do not derive hydrogen from a fossil fuel feedstock and that receive funding from specified state and federal programs.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

Page 4 29 SECTION 1. Section 21189.81 of the Public Resources Code  
30 is amended to read:

31 21189.81. For purposes of this chapter, the following  
32 definitions apply:

33 (a) "Applicant" means a public or private entity or its affiliates,  
34 or a person or entity that undertakes a public works project, that  
35 proposes a project and its successors, heirs, and assignees.

36 (b) "Disadvantaged community" means an area identified by  
37 the California Environmental Protection Agency pursuant to  
38 Section 39711 of the Health and Safety Code or an area identified  
Page 5 1 as a disadvantaged unincorporated community pursuant to Section  
2 65302.10 of the Government Code.

3 (c) "Electrical transmission facility project" means a project for  
4 the construction and operation of an electrical transmission facility  
5 ~~the~~ that meets either of the following:

6 (1) An electrical transmission facility project identified by the  
7 Independent System Operator in its annual transmission planning  
8 process that meets either of the following criteria:

9 (A) The project will facilitate delivery of electricity from  
10 renewable energy resources or zero-carbon resources.

11 (B) The project will facilitate delivery of electricity from energy  
12 storage projects.

13 (2) An electrical transmission facility project identified by a  
14 local publicly owned electric utility that would satisfy a  
15 transmission expansion need approved by the governing body of  
16 the local publicly owned electric utility and that meets either of  
17 the following criteria:

18 (A) The project will facilitate delivery of electricity from  
19 renewable energy resources or zero-carbon resources.

**Amendment 2**

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Page 5 20 (B) The project will facilitate delivery of electricity from energy  
 21 storage projects.  
 22 (d) (1) “Energy infrastructure project” means any of the  
 23 following:  
 24 (A) An eligible renewable energy resource, as defined in Section  
 25 399.12 of the Public Utilities Code, excluding resources that  
 26 combust biomass fuels.  
 27 (B) New energy storage systems of 20 megawatts or more, that  
 28 are capable of discharging for at least two hours, provided that a  
 29 pumped hydro facility may qualify only if it is less than or equal  
 30 to 500 megawatts and has been directly appropriated funding by  
 31 the state before January 1, 2023.  
 32 (C) A project for which the applicant has certified that a capital  
 33 investment of at least two hundred fifty million dollars  
 34 (\$250,000,000) made over a period of five years and the project  
 35 is for either of the following:  
 36 (i) The manufacture, production, or assembly of an energy  
 37 storage system or component manufacturing, wind system or  
 38 component manufacturing, and solar photovoltaic energy system  
 39 or component manufacturing.  
 Page 6 1 (ii) The manufacture, production, or assembly of specialized  
 2 products, components, or systems that are integral to renewable  
 3 energy or energy storage technologies.  
 4 (D) An electrical transmission facility project, provided that  
 5 nothing in this chapter affects the jurisdiction of the California  
 6 Coastal Commission pursuant to Division 20 (commencing with  
 7 Section 30000) to regulate such projects if located in the coastal  
 8 zone.  
 9 (E) A hydrogen production facility and associated onsite storage  
 10 and processing facilities ~~meeting all of the following conditions:~~  
 11 *that do not derive hydrogen from a fossil fuel feedstock and that*  
 + *receive funding from any of the following:*  
 12 (i) ~~The facility has received funding from the state or federal~~  
 13 ~~government on or before January 1, 2032.~~  
 14 (ii) ~~The facility does not use fossil fuel as the feedstock or~~  
 15 ~~energy source for the production of hydrogen.~~  
 16 (iii) ~~The facility has received a letter of support adopted at a~~  
 17 ~~public meeting by the governing body of the local government in~~  
 18 ~~which jurisdiction the facility will be located.~~

**Amendment 3**

**Amendment 4**

+ (i) *The Hydrogen Program established pursuant to Section 25664.1.*

+ (ii) *Section 91530, as added by the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 (Section 2 of Chapter 83 of the Statutes of 2024 (Senate Bill No. 867)), if that act is approved by the voters at the November 5, 2024, statewide general election.*

+ (iii) *The Alliance for Renewable Clean Hydrogen Energy Systems (ARCHES) authorized by Article 15 (commencing with Section 12100.160) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, as awarded by the United States Department of Energy Office of Clean Energy Demonstrations.*

Page 6 19 (2) Any project to develop a facility within the meaning of  
20 subdivision (b) of Section 25545 shall meet the requirements of  
21 Sections 25545.3.3 and 25545.3.5, except that those requirements  
22 shall also apply to solar photovoltaic and terrestrial wind electrical  
23 generating power plants with a generating capacity of between 20  
24 and 50 megawatts and energy storage projects capable of storing  
25 between 80 and 200 megawatt hours of electrical energy.

26 (e) “Infrastructure project” means a project that is certified  
27 pursuant to Sections 21189.82 and 21189.83 as any of the  
28 following:

- 29 (1) An energy infrastructure project.
- 30 (2) A semiconductor or microelectronic project.
- 31 (3) A transportation-related project.
- 32 (4) A water-related project.

33 (f) “Semiconductor or microelectronic project” means a project  
34 that meets the requirements related to investment in new or  
35 expanded facilities and is awarded funds under the federal Creating  
36 Helpful Incentives to Produce Semiconductors Act of 2022 (Public  
37 Law 117-167), commonly known as the CHIPS Act of 2022, and  
38 the requirements of Section 21183.5.

Page 7 39 (g) (1) “Transportation-related project” means a transportation  
40 infrastructure project that advances one or more of, and does not  
1 conflict with, the following goals related to the Climate Action  
2 Plan for Transportation Infrastructure adopted by the  
3 Transportation Agency:

- 4 (A) Build toward an integrated, statewide rail and transit  
5 network.

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Page 7 6 (B) Invest in networks of safe and accessible bicycle and  
7 pedestrian infrastructure.  
8 (C) Include investments in light-, medium-, and heavy-duty  
9 zero-emission vehicle infrastructure.  
10 (D) Develop a zero-emission freight transportation system.  
11 (E) Reduce public health and economic harms and maximize  
12 community benefits.  
13 (F) Make safety improvements to reduce fatalities and severe  
14 injuries of all users towards zero.  
15 (G) Assess and integrate assessments of physical climate risk.  
16 (H) Promote projects that do not significantly increase passenger  
17 vehicle travel.  
18 (I) Promote compact infill development while protecting  
19 residents and businesses from displacement.  
20 (J) Protect natural and working lands.  
21 (2) Transportation-related projects are public works for the  
22 purposes of Section 1720 of the Labor Code and shall comply with  
23 the applicable provisions of Chapter 1 (commencing with Section  
24 1720) of Part 7 of Division 2 of the Labor Code.  
25 (h) (1) “Water-related project” means any of the following:  
26 (A) A project that is approved to implement a groundwater  
27 sustainability plan that the Department of Water Resources has  
28 determined is in compliance with Sections 10727.2 and 10727.4  
29 of the Water Code or to implement an interim groundwater  
30 sustainability plan adopted pursuant to Section 10735.6 of the  
31 Water Code.  
32 (B) (i) A water storage project funded by the California Water  
33 Commission pursuant to Chapter 8 (commencing with Section  
34 79750) of Division 26.7 of the Water Code.  
35 (ii) In addition to clause (i), the applicant shall demonstrate that  
36 the project will minimize the intake or diversion of water except  
37 during times of surplus water and prioritizes the discharge of water  
38 for ecological benefits or to mitigate an emergency, including, but  
39 not limited to, dam repair, levee repair, wetland restoration,  
Page 8 1 marshland restoration, or habitat preservation, or other public  
2 benefits described in Section 79753 of the Water Code.  
3 (C) Projects for the development of recycled water, as defined  
4 in Section 13050 of the Water Code.  
5 (D) Contaminant and salt removal projects, including  
6 groundwater desalination and associated treatment, storage,

Page 8 7 conveyance, and distribution facilities. This shall not include  
8 seawater desalination.  
9 (E) Projects exclusively for canal or other conveyance  
10 maintenance and repair.  
11 (2) Water-related projects are public works for purposes of  
12 Section 1720 of the Labor Code and shall comply with the  
13 applicable provisions of Chapter 1 (commencing with Section  
14 1720) of Part 7 of Division 2 of the Labor Code.  
15 (3) “Water-related project” does not include the design or  
16 construction of through-Delta conveyance facilities of the  
17 Sacramento-San Joaquin Delta.  
18 SEC. 2. Section 25545 of the Public Resources Code is  
19 amended to read:  
20 25545. For purposes of this chapter, the following definitions  
21 apply:  
22 (a) “California Native American tribe” has the same meaning  
23 as set forth in Section 21073.  
24 (b) “Facility” means any of the following:  
25 (1) A solar photovoltaic or terrestrial wind electrical generating  
26 powerplant with a generating capacity of 50 megawatts or more  
27 and any facilities appurtenant thereto.  
28 (2) An energy storage system as defined in Section 2835 of the  
29 Public Utilities Code that is capable of storing 200 megawatthours  
30 or more of energy.  
31 (3) A stationary electrical generating powerplant using any  
32 source of thermal energy, with a generating capacity of 50  
33 megawatts or more, excluding any powerplant that burns, uses, or  
34 relies on fossil or nuclear fuels.  
35 (4) A discretionary project as described in Section 21080 for  
36 which the applicant has certified that a capital investment of at  
37 least two hundred fifty million dollars (\$250,000,000) will be made  
38 over a period of five years and the discretionary project is for (A)  
39 the manufacture, production, or assembly of an energy storage  
40 system or component manufacturing, wind system or component  
Page 9 1 manufacturing, and solar photovoltaic energy system or component  
2 manufacturing, or (B) the manufacture, production, or assembly  
3 of specialized products, components, or systems that are integral  
4 to renewable energy or energy storage technologies.  
5 (5) An electrical transmission line carrying electricity from a  
6 facility described in paragraph (1), (2), or (3) that is located in the  
7

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Page 9 8 state to a point of junction with any interconnected electrical  
9 transmission system.  
10 (6) A hydrogen production facility and associated onsite storage  
11 and processing facilities ~~meeting all of the following conditions:~~  
12 *that do not derive hydrogen from a fossil fuel feedstock and that*  
+ *receive funding from any of the following:*  
13 ~~(A) The facility has received funding from the state or federal~~  
14 ~~government on or before January 1, 2032.~~  
15 ~~(B) The facility does not use fossil fuel as the feedstock or~~  
16 ~~energy source for the production of hydrogen.~~  
17 ~~(C) The facility has received a letter of support adopted at a~~  
18 ~~public meeting by the governing body of the local government in~~  
19 ~~which jurisdiction the facility will be located.~~  
+ (A) *The Hydrogen Program established pursuant to Section*  
+ *25664.1.*  
+ (B) *Section 91530, as added by the Safe Drinking Water,*  
+ *Wildfire Prevention, Drought Preparedness, and Clean Air Bond*  
+ *Act of 2024 (Section 2 of Chapter 83 of the Statutes of 2024 (Senate*  
+ *Bill No. 867)), if that act is approved by the voters at the November*  
+ *5, 2024, statewide general election.*  
+ (C) *The Alliance for Renewable Clean Hydrogen Energy Systems*  
+ *(ARCHES) authorized by Article 15 (commencing with Section*  
+ *12100.160) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the*  
+ *Government Code, as awarded by the United States Department*  
+ *of Energy Office of Clean Energy Demonstrations.*  
20 (c) "Site" means any location on which an eligible facility is  
21 constructed or is proposed to be constructed.  
33 SEC. 3. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 a local agency or school district has the authority to levy service  
36 charges, fees, or assessments sufficient to pay for the program or  
37 level of service mandated by this act, within the meaning of Section  
38 17556 of the Government Code.

**Amendment 5**

**Amendment 6**

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**ADMINISTRATIVE ITEM:  
ASSEMBLY CONTRIBUTION FOR MEDICAL INSURANCE**

**ISSUE:**

Should the maximum amount the Assembly contributes for the cost of employees' medical insurance coverage be increased to cover the cost of the monthly premiums for health plans effective January 1, 2025?

**BACKGROUND:**

The Assembly Rules Committee establishes the maximum monthly employer contribution toward the cost of employees' medical insurance premiums.

The California Public Employees' Retirement System (CalPERS) contracts with the insurance carriers offering plans available to Assembly employees. Premiums for the plans in which Assembly employees are enrolled will increase between 4% and 14% effective January 1, 2025.

By increasing the Assembly's current maximum employer contribution rate by 10%, the employer contribution will cover the full cost of the premiums for the medical insurance plans in which Assembly employees are enrolled.

**RECOMMENDATION:**

Approve