

DMH →



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

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August 19, 2008

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Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF MENTAL HEALTH: AUTHORIZATION TO EXERCISE
AUTHORITY UNDER SENATE BILL 568 IN ORDER TO PROVIDE PSYCHIATRIC
MEDICATIONS IN THE LOS ANGELES COUNTY JAILS TO DEFENDANTS FOUND
INCOMPETENT TO STAND TRIAL
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

Approval of the requested action will allow antipsychotic medication to be administered to defendants in the County jails who have been found to be mentally incompetent to stand trial and unable to provide informed medication consent due to a mental disorder.

IT IS RECOMMENDED THAT YOUR BOARD:

Authorize the Director of the Department of Mental Health (DMH) and the Sheriff, pursuant to Senate Bill (SB) 568, to designate the County jails as treatment facilities in order to provide medically approved medication to defendants housed in those facilities who are found to be mentally incompetent to stand trial and unable to provide informed consent due to a mental disorder.

"To Enrich Lives Through Effective And Caring Service"

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PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Board approval of the recommended action will assure timely and humane access to psychiatric medication by 1) misdemeanor defendants committed to the County Jail Mental Health Services (JMHS) for care and treatment to restore their competency and 2) felony defendants awaiting bed availability in State psychiatric hospital competency restoration programs.

SB 568, enacted in October 2007, amended Section 1369 of the California Penal Code (PC) and added Section 1369.1 to enable Counties to designate County jails as treatment facilities for the purpose of administering antipsychotic medication to defendants that have been found mentally incompetent to stand trial and unable to provide informed medication consent due to a mental disorder. The bill would limit treatment in these facilities to a maximum of six months.

Prior to the enactment of SB 568, it was not clear that existing law permitted these defendants to be given antipsychotic medication pursuant to a court order while in the county jails because the law specified that these individuals were to be committed for competency restoration to the State hospital or to any other available public or private "treatment facility" or placed on outpatient status. As a consequence, many defendants were not making progress toward competency while in the county jails.

SB 568 clarifies that county jails may be considered "treatment facilities" under the law for the sole purpose of administering antipsychotic medication pursuant to a court order and specifies that upon the concurrence of the county board of supervisors, the county mental health director and the county sheriff, a county jail may be designated to provide medically approved medication to defendants found to be medically incompetent to stand trial and unable to provide informed consent due to a mental disorder.

Implementation of Strategic Plan Goals

The recommended Board actions support Goal No. 1, Service Excellence, Goal No. 3, Organizational Effectiveness, and Goal No. 7, Health and Mental Health of the County Strategic Plan by improving the delivery and effectiveness of mental health treatment, specifically court-authorized antipsychotic medication in the County jails.

FISCAL IMPACT/FINANCING

There is no increase in net County cost.

The cost of psychiatric medications for inmates with mental illness is included in the Sheriff Department's budget, including medications for those that have been adjudicated incompetent to stand trial due to a mental disorder.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

A person cannot be tried or convicted while that person is mentally incompetent. Accordingly, if a defendant is found mentally incompetent to stand trial, the court must suspend the trial or judgment until he or she becomes competent. In the meantime, the court must order a mental evaluation of the defendant and must order that he or she be confined to an available public or private treatment facility approved by the county mental health director that will promote the defendant's speedy restoration to competency or that he or she be placed on outpatient status or, if the defendant is charged with a felony, alternatively, that he or she be confined to a state hospital for care and treatment of the mentally disordered.

Additionally, the court must hear and determine whether the defendant, with advice of counsel, consents to the administration of psychotropic medication. If the defendant does not consent, the court must conduct a hearing and, upon certain conditions, may issue an order authorizing the treatment facility to involuntarily administer antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist.

As for defendants charged with a misdemeanor, in 2002, the Director of DMH approved the Misdemeanor Incompetent to Stand Trial (MIST) program in the County jails as a treatment facility for misdemeanor defendants. Although JMHS MIST program was approved as a treatment facility, it was not clear that the law permitted a defendant in the JMHS MIST program to be involuntarily administered antipsychotic medication pursuant to a court order outside of the JMHS forensic inpatient unit, which is designated under the Lanterman-Petris-Short Act to provide involuntary treatment services. SB 568 clarifies that antipsychotic medication pursuant to a court order may be administered in a county jail upon the concurrence of the county mental health director, the county sheriff and the county board of supervisors.

As for defendants charged with a felony, under PC Section 1370, felony defendants found incompetent to stand trial can be court-ordered to be delivered by the Sheriff to a state hospital. However, due to current state hospital capacity issues, many of these felony defendants are held in county jails for extended periods of time pending state hospital bed availability. Prior to the enactment of SB 568 there was no mechanism for treating these defendants with antipsychotic medications unless they voluntarily agreed to their administration.

Incompetent to Stand Trial (IST) Medication Guidelines that conform to SB 568 have been developed by DMH and the Sheriff Department. Program managers of both Departments will monitor the IST medication administration program on an ongoing basis, including ensuring that the maximum period of time a defendant is treated with involuntary antipsychotic medication does not exceed 6 months, as specified by PC Section 1369.1.

SB 568 is effective until January 1, 2010 unless extended by statute prior to the repeal date.

The proposed action has been reviewed by County Counsel and approved by DMH's Director and the Los Angeles County Sheriff.

IMPACT ON CURRENT SERVICES

Designation of the County jail as a treatment facility for the sole purpose of administering antipsychotic medication pursuant to a court order is intended to promote restoration to competency for misdemeanor defendants being treated in the JMHS MIST program and for felony defendants awaiting transfer to a state hospital for restoration of competency services; prevent or reduce the occurrence of aggression, self-destructive acts, and severe behavioral outbursts among these defendants while incarcerated in the County jails; and reduce the frequency of felony defendants cycling between the County jail and the state hospital due to lack of medication adherence. Based on a comparison of data related to the length of time required to restore competency for misdemeanor defendants that currently voluntarily accept antipsychotic medications versus those that do not receive medication, it is anticipated that the recommended action will reduce the length of incarceration of misdemeanor defendants incompetent to stand trial.

Honorable Board of Supervisors
August 19, 2008
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CONCLUSION

The Department of Mental Health and the Sheriff Department will each need one copy of the adopted Board action. It is requested that the Executive Officer of the Board notify the Department of Mental Health's Contracts Development and Administration Division, at (213) 738-4684, and the Sheriff Department's Contracts Division, when this document is available.

Respectfully submitted,



WILLIAM Y FUJIOKA
Chief Executive Officer

WTF:SRH:SAS
MLM:DAS:yb

c: Sheriff
County Counsel
Director, Department of Mental Health
Chairperson, Mental Health Commission

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