AGN. NO.

**MOTION BY SUPERVISOR JANICE HAHN** May 5, 2026

**Sustaining Mental Health Diversion Programs in California by Opposing Senate Bill 1373 (Grove) and Assembly Bill 2275 (Baines)**

In California, the Mental Health Diversion (MHD) program authorizes pre-trial diversion for certain people with mental illness, helping them access supportive services, get mental health treatment, and stay out of the revolving door of incarceration. When a qualifying defendant suffers from a qualifying mental health disorder, the California MHD statute (Penal Code Section 1001.36) allows, but does not require, courts to pause the criminal process and order the defendant into a court-supervised treatment program. If the defendant successfully completes a 1–2-year long program, does not reoffend, and has a plan in place for long-term care, the court may then dismiss the case. These court-supervised treatment programs have proven vital to public health by providing participants with access to supportive services and long-term mental health treatment, protecting public safety by reducing recidivism caused by untreated mental health disorders.

MHD embodies the ethos that no one can get well in a cell: people with mental illness who enter the carceral system often come out with worsened symptoms, experience compounded traumas, are at higher risk for overdose, and are more likely to attempt suicide.[1] MHD is a critical component of Los Angeles County's (County) efforts

[1] https://www.prisonpolicy.org/blog/2021/05/13/mentalhealthimpacts/

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to develop a ”Care First, Jails Last” health and criminal justice system, where there is a recognition that when people can be treated and supported in community settings rather than sent to jail, they should be. Unfortunately, the percentage of people in County jails with mental health needs has increased significantly over the years – more than half of the incarcerated population in the County is living in a jail mental health housing module. Since 2018, when the MHD statute was passed, it has been a critical tool in diverting people instead of jailing them and helping them get the care that they need in order to prevent recidivism. People with Serious Mental Illness (SMI) are more likely to recidivate after incarceration than those without SMI. A County study released in 2021 looked at the three-year reconviction rates for individuals who did not receive or participate in any diversion programs. The full cohort recidivism rate was 36%, but it was 44% for people with SMI and 68% for people with SMI, Substance Use Disorder, and experiencing homelessness.[2] MHD programs recognize the obvious – individuals living with mental health disorders who are *not* placed in treatment and are simply incarcerated will almost always end up back on the street, but now with a criminal record and no treatment.

The County’s Justice Care and Opportunities Department (JCOD), Department of Health Services’ Office of Diversion and Re-entry (ODR), and Department of Mental Health (DMH) have worked with justice partners and stakeholders to build out MHD programs and collaborative courts that support people who are diverted from jail to receive mental health treatment in the community. While JCOD’s programs are relatively new, data on their impact is promising: a 2024 RAND study showed that JCOD’s Rapid Diversion Program (RDP), a pre-plea diversion program for people with mental health diagnoses including substance use disorders, has a 9% recidivism rate, which is

[2] 2021-2-17-Justice-Metrics-Framework-Baseline-Report.pdf

significantly lower than the California recidivism rate of 41.9%.[3] For the 1,033 RDP clients who were diverted between February 2024 and February 2026, 92% have been connected to mental health and substance use treatment and 90% are in stable housing.

The County's ODR program, which launched in 2015, provides diversion for clients with SMI by diverting them from jail and placing them in residential settings with wrap-around services and mental health treatment. ODR programs have been shown to decrease instances of medical and psychiatric hospitalizations (by 59% and 71% respectively) and decrease homelessness, with a 93% permanent housing retention rate one year after move-in. ODR participants with more serious charges are carefully screened by ODR clinicians who recommend their participation in the program only if ODR can safely and effectively treat them in the community. While ODR makes the recommendation based on their clinical and legal screening, a Superior Court Judge ultimately makes the decision about whether to release a defendant to the ODR diversion program. And when MHD is not offered, people do not always stay incarcerated. In fact, often people are released on standard probation without robust services, mental health treatment, or housing, decreasing public safety, and increasing risk of recidivism.

Similar to the RDP and ODR programs, DMH's Mental Health Court Linkage Program (MHCLP) offers the courtroom as an entry point to mental health services when it is clinically indicated, instead of jail time. Clients are referred to a DMH clinician who is stationed in 19 criminal courthouses across the County and may be offered MHD, if agreed upon by relevant parties and determined appropriate by the court. The MHD program can include locked or unlocked facilities in the community, depending on the

[3] https://www.rand.org/pubs/research_reports/RRA3385-1.html https://www.cdcr.ca.gov/news/2024/02/13/cdcr-recidivism-report-finds-recidivism-rates-drop-2/#:~:text=The%20California%20Department%20of%20Corrections%20and%20Rehabilitation,a%202.7%25%20decline%20from%20the%20previous%20year.

client's level of clinical need and the judge's assessment of suitability. And there are additional safeguards in place – just as the court can approve MHD for defendants, they can also remove a participant from the program if a violation of the terms of the diversion program warrants removal.

These critical County MHD programs are being threatened by proposed state legislation that is aimed at significantly decreasing access to MHD. Assembly Bill (AB) 46 (Nguyen)[4], Senate Bill (SB) 1373 (Grove)[5], and AB 2275 (Baines)[6], would all drastically restrict who qualifies for MHD and change how the MHD program operates, with the goal of limiting MHD participation. While the County has already taken a position to oppose AB 46, the County does not currently have a position on SB 1373 or AB 2275.

SB 1373 would narrow diversion eligibility by requiring the court to find that the defendant's mental disorder was a significant factor in the commission of the offense only if the mental disorder had been diagnosed within five years of the current offense. Currently, to qualify for MHD, one condition is that the client must have either received a diagnosis or been treated for their mental illness within the past five years. Changing the qualification to include only individuals who have been diagnosed within the past five years is incredibly limiting – a significant number of MHD participants receive diagnoses more than five years before the alleged offense was committed, and others do not receive a diagnosis until after they have been arrested. In both of those situations, individuals would, therefore, not qualify for diversion under the proposed legislation. SB 1373 would also add to the list of crimes for which a defendant is prohibited from being placed into a diversion program, and it would prohibit a defendant with two prior felonies or a prior

[4] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB46
[5] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260SB1373
[6] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB2275

offense under the Three Strikes provisions from being granted diversion. A recent review of MHCLP cases that were connected to services and qualified for MHD found that 98% of those individuals had at least two prior felony convictions. SB 1373 would not merely exclude marginal cases; instead, it would likely eliminate diversion access for a large portion of the very population currently being served by treatment-based alternatives.

Like SB 1373, AB 2275 would prohibit eligibility for diversion based solely on a mental disorder diagnosis and require proof that the defendant is not mentally incompetent, with defendants providing a written diagnosis from the past two years. This two-year diagnosis requirement is extremely limiting, and like the five-year restriction proposed in SB 1373, it would inevitably decrease the number of eligible MHD program participants. Imposing a two-year requirement for a diagnosis is not evidence-based or science-based and would result in more people with mental illness being incarcerated in jails where they do not receive adequate mental health care. Moreover, the bill would exclude individuals who have been found Incompetent to Stand Trial (IST) from participating in MHD. This would likely result in fewer IST patients accessing community-based treatment, and more individuals being placed in state hospitals. The bill would also exclude from diversion defendants with certain charges, unless both parties agree to diversion. Courts currently have authority to assess risk, appropriateness, and treatment feasibility case by case, so that clinically appropriate and evidence-based safeguards are in place to protect public safety. These bills rely too heavily on categorical exclusions rather than individualized judicial review, and pose an increased, not decreased, risk to public safety. In all MHD programs, judges have ultimate judicial discretion and are required to consider public safety when considering diversion for defendants. Both of these bills would significantly reduce the number of people placed on MHD, endangering the reductions in recidivism that the program has provided.

MHD is a public safety strategy, not a loophole. Restricting diversion does not improve public safety if the result is more untreated mental illness in jail, more psychiatric deterioration, more instability upon release, and continued cycling through the criminal legal system. Outlier cases of individuals who recidivate when they are diverted through MHD should not drive policy decisions that would lead to a dramatic reduction in accessibility to critical MHD programs that have been very successful overall in helping interrupt the revolving door of recidivism and getting people with SMI into treatment. California should, instead, preserve and strengthen MHD as a treatment-based public safety tool. These bills move in the opposite direction of research and best practice by shrinking eligibility for diversion and increasing the likelihood that people with SMI will decompensate in jail rather than stabilize in community housing and treatment. If passed, these bills would inevitably lead to growth in the incarcerated population in the County, which is exactly what the Board of Supervisors (Board) has been opposed to since it established the Office of Diversion and Reentry over a decade ago. The Board should take swift action to oppose SB 1373 and AB 2275 and similar bills that would limit the County's ability to utilize MHD to direct County residents into treatment instead of jail.

**I, THEREFORE, MOVE** that the Board of Supervisors direct the Chief Executive Office's Legislative Affairs and Intergovernmental Relations branch to:

1. Advocate in opposition to Senate Bill 1373 (Grove) and Assembly Bill 2275 (Baines).
2. Take necessary steps to oppose bills similar to Assembly Bill 46 (Nguyen), Senate Bill 1373 (Grove), and Assembly Bill 2275 (Baines) that would act to limit access to Mental Health Diversion programs and opportunities for County residents.

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JH:cc:ap