

Date of Hearing: May 8, 2024

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 2576 (Stephanie Nguyen) – As Introduced February 14, 2024

Policy Committee: Public Safety

Vote: 8 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill makes a defendant charged with attempted murder ineligible for placement in mental health diversion.

FISCAL EFFECT:

Costs (General Fund) the California Department of Corrections and Rehabilitation to incarcerate people convicted of attempted murder who otherwise would have completed diversion. The actual number of such cases statewide is unknown, but given the high cost of incarceration the costs resulting from this measure may be significant. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000.

Attempted murder is punishable by a term in state prison, ranging from five years to 7.5 years to life with the possibility of parole. If three people statewide are convicted of attempted murder instead of completing mental health diversion and must each serve nine years in state prison, the resulting incarceration costs would be approximately \$3.6 million over nine years.

According to the LAO, the General Fund faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

COMMENTS:

1) **Purpose.** According to the author:

Attempted murder is a serious and violent offense that poses a significant threat to public safety. Currently, a loophole in state law allows individuals who attempt, but fail to kill someone, to be granted diversion for mental health treatment. This can result in their release into the community with minimal court supervision, and expungement of their criminal record upon completion of the program. AB 2576 addresses this issue by including attempted murder on the list of crimes ineligible for mental health diversion.

2) **Background.** Mental health diversion is a form of pretrial diversion that suspends the criminal proceedings against a defendant while they complete a mental health program. If the defendant does not successfully complete the diversion program, criminal proceedings resume and the defendant may proceed to trial or enter a plea. If the defendant successfully completes diversion, the criminal charges against them are dismissed.

Under existing law, a court may place a criminal defendant in a mental health diversion program if the defendant has been deemed eligible and the following conditions are met: a qualified mental health expert must determine that the defendant's mental health symptoms that contributed to their criminal behavior would respond to mental health treatment. The defendant must consent to diversion and waive certain rights. The defendant must agree to comply with treatment as a condition of diversion. And the court must determine that the defendant will not pose an unreasonable risk of danger to public safety if treated in the community. If all of these conditions are met, the court may – but is not required to – place a defendant in mental health diversion. However, if the defendant has been charged with certain serious offenses, they are ineligible for mental health diversion, including murder, voluntary manslaughter, and certain sex offenses.

This bill specifies that a defendant who has been charged with attempted murder may not be placed in mental health diversion.

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