ASSEMBLY THIRD READING
AB 1897 (Haney)
As Amended April 29, 2026
Majority vote

SUMMARY

Provides that an incarcerated person who disagrees with a Board of Parole Hearings' (BPH) determination that the person qualifies as an offender with a mental health disorder may file a petition for a hearing on the matter in the superior court of the county of commitment to state prison, rather than in the county in which the person is incarcerated or being treated.

Major Provisions

COMMENTS

Overview of the Commitment Process for an OMHD: Existing law provides that, as a condition of parole, an incarcerated person who meets specified criteria can be involuntarily committed to DSH for treatment. (Pen. Code, Section 2962 et seq.) The OMHD scheme is designed to confine an incarcerated person who is about to be released on parole if they suffer from a severe mental health disorder that contributed to the commission of their crime. Rather than release them to the community, CDCR paroles the incarcerated person to the supervision of DSH, and the person remains under DSH supervision throughout the parole period. (Pen. Code, Section 2962). Treatment can continue for one year upon termination of parole (Pen. Code Section 2970), and treatment can be extended for an additional year after expiration of the original, or previous, one-year commitment (Pen. Code Section 2972). *(People v. Cobb* (2010) 48 Cal.4th 243, 251.)

Commitment as an OMHD requires a showing that the incarcerated person has a severe mental health disorder that is not in remission or that cannot be kept in remission without treatment. (Pen. Code, Section 2962, subd. (a)(1).) Existing law defines "severe mental health disorder" as an illness, disease, or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or that grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. (Pen. Code, Section 2962, subd. (a)(2).) The severe mental health disorder must have been one of the causes of, or have been an aggravating factor in, the commission of a crime for which the person was sentenced. (Pen. Code, Section 2962, subd. (b).) The incarcerated person must also have been in treatment for the disorder for 90 days or more within the year prior to parole or release. (Pen. Code, Section 2962, subd. (c).)

The initial determination that an incarcerated person qualifies as an OMHD is made administratively. Prior to release on parole, the person in charge of treating the incarcerated person and a practicing psychiatrist or psychologist from DSH must have evaluated the person at a CDCR facility, and a chief psychiatrist of CDCR must have certified to BPH that the incarcerated person has a severe mental health disorder; that the disorder is not in remission and cannot be kept in remission without treatment; that the disorder was one of the causes of, or was an aggravating factor in, the incarcerated person's criminal behavior; that the incarcerated person has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the incarcerated person's parole release date; and that, by reason of their severe mental

health disorder, the incarcerated person represents a substantial danger of physical harm to others. (Pen. Code, Section 2962, subd. (d).)

If the professionals evaluating the incarcerated person do not agree that the person has a severe mental health disorder, that the disorder is not in remission or cannot be kept in remission without treatment, or that the severe mental health disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the incarcerated person BPH, then BPH must order an examination of the incarcerated person by two independent professionals. (Pen. Code, Section 2962, subd. (d)(2).) If at least one of the independent professionals who evaluates the incarcerated person concurs with the chief psychiatrist's certification of the person as an OMHD, the person can be involuntarily committed. (Pen. Code, Section 2962, subd. (d)(3).)

The incarcerated person may request a hearing before BPH to require proof that that they qualify as an OMHD. (Pen. Code, Section 2966, subd. (a).) If BPH determines that the person qualifies, the inmate may file, in the superior court of the county in which he or she is incarcerated or is being treated, a petition for a jury trial. (Pen. Code, Section 2966, subd. (b).) The jury must unanimously agree beyond a reasonable doubt that the inmate is an OMHD. (*Ibid.*) If the jury, or the court if a jury trial is waived, reverses the determination of BPH, the court is required to stay the execution of the decision for five working days to allow for an orderly release of the incarcerated person. (*Ibid.*)

Under existing law, an incarcerated person who disagrees with BPH's determination that they qualify as an OMHD, and thus can be involuntarily committed, may file in the superior court of the county in which they are incarcerated or being treated a petition for a hearing on whether they meet the OMHD criteria. This bill would change the location at which that petition for hearing can be filed to the superior court in of the county of the persons commitment to state prison.

According to the Author
"California's Mentally Disordered Offender laws are designed to ensure that individuals with severe mental illness who pose a danger to others receive appropriate treatment while protecting public safety. However, recent cases have exposed gaps in the law that allow dangerous individuals to be released due to inconsistent interpretations of the statutory standard used to determine risk. AB 1897 addresses this issue by clarifying the danger standard and requiring use of a structured risk assessment tool to support more consistent and evidence-based decisions. By improving the reliability of these determinations while preserving due process protections, this bill strengthens California's ability to protect communities and ensure the fair administration of our criminal justice system."

Arguments in Support
Not applicable.

Arguments in Opposition
Not applicable.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Significant ongoing costs (General Fund) to the Department of State Hospitals (DSH) associated with the bill's mandated use of the HCR-20 V3 structured violence-risk assessment. DSH estimates costs ranging from tens of millions of dollars annually and approaching $100 million in the high range, primarily driven by anticipated population growth in the OMD patient population. DSH estimates the bill would result in the following cost components:

   a) HCR-20 V3 evaluation workload — $2.77 million annually. The HCR-20 V3 takes approximately four hours to complete. DSH conducted approximately 2,000 initial OMHD evaluations and 370 patient-appealed cases in 2025; DSH reports that adding the HCR-20 V3 to each evaluation would add approximately 15,000 workload hours annually, requiring seven additional psychologists. DSH reports an additional $140,000 annually to retain contractors to conduct annual OMHD evaluations for patients on outpatient status.

   b) Increased OMD patient population — tens of millions to $100 million annually. DSH estimates the bill would increase new OMHD commitments by up to 20% and reduce decertifications by up to 30%, increasing the OMHD patient population overall. At a daily treatment cost of $1,121 per patient and an average length of stay of 259 days (approximately $290,000 per patient), the cost of treating the increased population could range from tens of millions of dollars up to $100 million annually. DSH notes that it has limited available bed capacity to activate for this purpose. If the OMD patient population exceeds DSH's available beds, DSH would need to contract for additional jail-based or community-based bed capacity to treat other DSH-committed populations and free up DSH beds for OMDs.

2) Workload costs (Trial Court Trust Fund, General Fund) of an unknown amount to the trial courts. The venue change shifts petitions for hearing on OMD determinations from the superior court of the county where the prisoner is incarcerated or being treated to the superior court of the county of commitment to state prison. Net statewide workload is likely unchanged, but the change redistributes existing workload from courts in counties that house state prisons (such as Kern, Kings, Lassen, San Bernardino, San Luis Obispo, and Solano) to courts in counties of commitment. DSH reports that current OMHD-receiving courts are well-versed in OMHD law, while courts in most other counties are not, which may increase per-case workload during a transition period as commitment-county courts develop expertise. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately $117.3 million in 2025-26.

3) Costs in the low millions to the California Department of Corrections and Rehabilitation (CDCR) (General Fund). In order to comply with the bill's requirement for use of this particular assessment, CDCR and the California Correctional Health Care Services (CCHCS) would need to obtain evaluator access to the tool, purchase manuals and assessment materials, provide specialized training, and absorb any associated implementation or ongoing licensing costs where such access does not currently exist. CDCR reports that administration of the HCR-20 V3 would require four additional psychologist positions, resulting in staffing costs at $902,063 annually. Additional one-time and ongoing costs for training, manuals, assessment forms, staff backfill during training, supervisory review, and onboarding of new

clinicians would further increase implementation costs. The ultimate fiscal impact will depend on final implementation requirements, evaluator availability, training capacity, and whether the HCR-20 V3 replaces or supplements existing evaluation practices.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around $35 billion per year beginning in the 2027-28 fiscal year.

VOTES

ASM PUBLIC SAFETY: 9-0-0
YES: Schultz, Alanis, Mark González, Haney, Harabedian, Lackey, Nguyen, Ramos, Sharp-Collins

ASM APPROPRIATIONS: 15-0-0
YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

UPDATED

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