
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 1373 (Grove) - Mental health diversion

Version: April 15, 2026

Urgency: No

Hearing Date: May 4, 2026

Policy Vote: PUB. S. 5 - 0

Mandate: Yes

Consultant: Bob Franzoia

Bill Summary: SB 1373 would make several changes to the mental health diversion law, including (1) adding to the list of offenses for which a person is excluded from mental health diversion eligibility and (2) adding to the factors that must be considered when determining a defendant's risk to public safety.

Fiscal Impact: Costs (local funds, General Fund) to the counties and the Department of Corrections and Rehabilitation of an unknown but significant amount to incarcerate people who otherwise could have been diverted and received mental health treatment. The Department of Corrections and Rehabilitation (CDCR) estimates the average annual cost to incarcerate one person in state prison to be approximately \$138,000 for FY 2026-27. The average annual cost to incarcerate one person in county jail is approximately \$77,252 per year based on the average in California's four largest counties in 2021, with cost ranging up to \$90,000. Actual incarceration costs will depend on the number of convictions and the length of each sentence. Although county incarceration costs are generally not considered reimbursable state mandates pursuant to Proposition 30 (2012), overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from 2011 public safety realignment.

Cost pressures to the courts, to the extent this bill decreases the number of defendants deemed eligible and suitable for mental health diversion. Such defendants must go through typical criminal court proceedings instead, which are generally longer and more resource-intensive for courts than diversion proceedings. At an estimated cost of \$1,300 for one hour of court time, a five day trial would cost more than \$50,000. Although courts are not funded on the basis of workload, increased cost pressures on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The FY 2026-27 Budget proposes \$70 million General Fund to backfill declining revenue to the Trial Court Trust Fund.

Background: Existing law, known as Marsy's Law, enumerates a number of rights to victims of crime, including the right to have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant; to reasonable notice of all public proceedings, upon request, at which he defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings; to restitution; to be informed of all parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender; and to be informed of their enumerated rights, among others.

Eligibility for diversion is based on whether the defendant has been diagnosed with a qualifying mental health disorder and whether the defendant's mental health disorder was a significant factor in the commission of the offense currently being considered for diversion. In existing law, the court must presume a defendant's mental health disorder was a significant factor in the commission of the offense unless there is clear and convincing evidence to the contrary.

Suitability for diversion is based on several factors, including whether the defendant will pose an unreasonable risk of danger to public safety if they are treated in the community. Under existing law, this requires a showing that there is a likelihood that the defendant is granted diversion, they will commit a specified violent felony offense. This bill proposes a standard that is more cautious than the standard in existing law and may result in judges finding more defendants unsuitable for diversion than under existing law.

Proposed Law: A defendant may not be placed in a diversion program, for offenses defined in Penal Code 1001.36 (d). This bill would add the following offenses:

- (1) Child abuse and endangerment, in violation of Section 273a, if charged as a felony.*
- (2) Assault of a child under eight years of age resulting in the death of the child, in violation of Section 273ab.*
- (3) Human trafficking, in violation of Section 236. 1.*
- (4) Corporal; injury, in violation of Section 273.5, that causes great bodily injury.*
- (5) Inflicting cruel or inhuman corporal punishment on a child resulting in an injury, in violation of Section 273d, if charged as a felony.*

Related Legislation: SB 483 (Stern) 2025 creates an additional suitability factor for granting mental health diversion, requiring the court be satisfied that the recommended mental health treatment program is consistent with the purpose of diversion and will meet the defendant's specialized treatment needs. That bill was held on the Assembly Appropriations Committee Suspense File.

AB 46 (Nguyen) 2026 proposes various changes to the mental health diversion law, including changing the public safety standard for finding a particular defendant suitable for diversion. That bill has been referred to the Senate Appropriations Committee.

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