

Date of Hearing: August 5, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 1373 (Grove) – As Amended July 2, 2026

Policy Committee: Public Safety

Vote: 7 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill makes various changes to the mental health diversion program, principally by revising the public safety standard a court applies in determining whether a defendant is suitable for diversion.

More specifically, this bill:

- 1) Replaces the requirement that the court find the defendant will not pose an unreasonable risk of danger to public safety, as defined, with a requirement that the court find the defendant will not pose a substantial and undue risk to the physical safety of another person if treated in the community.
- 2) Specifies that diversion under these provisions is discretionary in all cases, when exercised consistent with the eligibility and suitability criteria.
- 3) Requires, for the presumption that a defendant's mental disorder was a significant factor in the commission of the charged offense, that the defendant have been diagnosed or rediagnosed with the disorder within five years of the current offense.
- 4) Requires the court to consider the victim's rights under Section 28 of Article I of the California Constitution, and requires the court, upon denying diversion, to orally state the reasons on the record.
- 5) Requires the court, if the court intends to summarily grant diversion or any other relief, to conduct an additional hearing if either party so requests.
- 6) Requires the recommended treatment program to be consistent with the underlying purpose of mental health diversion, and permits a county mental health agency that is unable to serve a referred defendant to establish that inability by written declaration in lieu of live testimony.

FISCAL EFFECT:

- 1) Costs of \$2.9 million to \$6.7 million annually (Trial Court Trust Fund, General Fund) to the trial courts for the additional hearings required when a party requests one prior to a summary grant of diversion, with the upper end of the range more likely, according to the Judicial Council. The Judicial Council estimates up to 18,700 additional hearings annually, with the actual figure dependent on how frequently parties request a hearing. The Judicial Council anticipates requests will be made more often than not, on the basis that prosecutors have

historically opposed diversion grants entered over their objection. It generally costs approximately \$1,000 to operate a courtroom for one hour. 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.

- 2) Non-reimbursable local incarceration costs (local funds), and associated General Fund cost pressure, of an unknown amount to the extent the revised standard results in additional custody time for defendants who would have been diverted under existing law. Although county incarceration costs are generally not reimbursable state mandates under Proposition 30, the state has historically provided funding to counties to address jail population pressure following 2011 public safety realignment.
- 3) Potential state-reimbursable mandate costs (General Fund) of an unknown amount, likely minor, for local duties associated with the new hearing and record requirements, subject to a determination by the Commission on State Mandates.

COMMENTS:

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

California's Mental Health Diversion law was created with good intentions, to help individuals truly suffering from mental illness who do not pose a risk to public safety. Unfortunately, [the law] has taken a dangerous turn. We are seeing violent offenders ... exploit this law as a means to avoid accountability.

- 2) **Background.** Mental health diversion, established by AB 1810 (Committee on Budget), Chapter 34, Statutes of 2018, authorizes a court to postpone prosecution to allow a defendant to undergo mental health treatment, and to dismiss the charges upon satisfactory completion. Existing law conditions suitability in part on a finding that the defendant will not pose an unreasonable risk of danger to public safety, a term defined in Penal Code Section 1170.18 to mean a likelihood of committing an enumerated "super strike" offense. In *Sarmiento v. Superior Court* (2024) 98 Cal.App.5th 882, the court held that a trial court may not deny diversion by applying a definition of public safety inconsistent with that statutory definition. This bill replaces the statutory standard with a substantial and undue risk to the physical safety of another person, which is intended to give courts greater latitude to deny diversion on public safety grounds.
- 3) **Support and Opposition.** Supporters, including the California District Attorneys Association, the California State Sheriffs' Association, the California Police Chiefs Association, and the Peace Officers Research Association of California, argue the bill restores meaningful judicial discretion to deny diversion where public safety concerns remain. Opponents, including the County Behavioral Health Directors Association, the California Public Defenders Association, Disability Rights California, and Smart Justice California, argue the revised standard will result in additional incarceration of individuals better served by community treatment, and caution against further amendment of a statute recently revised through negotiated legislation.

- 4) **Related Legislation.** AB 46 (Nguyen), Chapter 18, Statutes of 2026, makes changes to mental health diversion that are identical to this bill in all respects except that AB 46 does not require an additional hearing upon request prior to a summary grant of diversion.

Analysis Prepared by: Shiran Zohar / APPR. / (916) 319-2081