
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: SB 1401 **Hearing Date:** April 14, 2026
Author: Stern
Version: February 20, 2026
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Criminal procedure: competence to stand trial*

HISTORY

Source: Family Advocates for Individuals With Serious Mental Illness of Sacramento

Prior Legislation: SB 1400 (Stern), Ch. 647, Stats. of 2024
AB 2547 (Ta), failed passage in Assembly Public Safety, 2024
AB 2692 (Papan), held in Senate Appropriations, 2024
SB 1317 (Wahab), Ch. 326, Stats. of 2024
SB 1323 (Menjivar), Ch. 646, Stats. of 2024
SB 317 (Stern), Ch. 599, Stats. of 2021
SB 1187 (Beall), Ch. 1008, Stats. of 2018

Support: California District Attorneys Association; California State Association of Psychiatrists; Riverside County District Attorney

Opposition: Disability Rights California; Los Angeles County Public Defender's Union, Local 148

PURPOSE

The purpose of this bill is to specify timeframes for the dismissal of felony charges for a defendant who is incompetent to stand trial (IST) and referred to one of several specified programs; authorizes a county behavioral health agency and jail medical provider to share confidential medical records and other relevant information with the court for the purpose of determining the likelihood of eligibility for behavioral health services and programs; and allows the court to refer a misdemeanor IST defendant to the county conservatorship investigator in the county of commitment for possible conservatorship proceedings if in its opinion the defendant appears to be gravely disabled.

Existing law requires, if during the pendency of an action and prior to judgment, a doubt arises in the mind of the judge as to the mental competence of the defendant, the judge to state that doubt in the record and inquire of the attorney for the defendant whether, in the opinion of the attorney, the defendant is mentally competent. Requires the court, at the request of the defendant or defendant's counsel or upon its own motion, to recess the proceedings for as long as may be reasonably necessary to permit counsel to confer with the defendant and to form an opinion as to the mental competence of the defendant at that point in time. (Pen. Code, § 1368, subd. (a).)

Existing law requires the court, if counsel informs the court that they believe the defendant is or may be mentally incompetent, to order that the question of the defendant's mental competence is to be determined. Authorizes the court, if counsel informs the court that they believe the defendant is mentally competent, to order a determination by the court of the defendant's mental competence. (Pen. Code, § 1368, subd. (b).)

Existing law requires all proceedings in the criminal prosecution to be suspended when an inquiry into the present mental competence of the defendant has been commenced by the court until the question of the present mental competence of the defendant has been determined, except as provided. (Pen. Code, § 1368, subd. (c).)

Existing law outlines the process by which the question of mental competence must proceed. (Pen. Code, § 1369.)

Existing law provides that Section 1370 applies to a person who is charged with a felony or alleged to have violated the terms of probation for a felony or mandatory supervision and is incompetent as a result of a mental health disorder. Provides that Section 1370.01 applies to a person who is charged with a misdemeanor or misdemeanors only, or a violation of formal or informal probation for a misdemeanor, and the judge finds reason to believe that the defendant has a mental health disorder, and may, as a result of the mental health disorder, be incompetent to stand trial. (Pen. Code, § 1367, subd. (b).)

Existing law requires the criminal process to resume, the trial on the offense charged or hearing on the alleged violation to proceed, and judgment to be pronounced. (Pen. Code, § 1370, (a)(1)(A).)

Existing law requires the trial, the hearing on the alleged violation, or the judgment to be suspended, if the defendant is found mentally incompetent (and is not charged with an offense that would make the defendant ineligible for mental health diversion). Requires the court to do all of the following:

- Determine whether restoring the person to mental competence is in the interests of justice.
 - In exercising its discretion, the court must consider the relevant circumstances of the charged offense, including the harm done to the victim, the defendant's mental health condition, including, without limitation, any intellectual or developmental disability, the history of treatment, the criminal history of the defendant, whether the defendant is likely to face incarceration if convicted, whether the defendant has previously been found incompetent to stand trial, whether restoring the person to mental competence will enhance public safety, and any other relevant considerations. Requires the court to provide the defense and prosecution an opportunity to be heard on whether restoration is in the interests of justice.
- If restoring the person to mental competence is in the interests of justice, the court must state its reasons orally on the record and the case shall proceed, as provided.
- If restoring the person to mental competence is not in the interests of justice, the court must conduct a mental health diversion hearing, and, if the court deems the defendant

eligible, grant diversion for a period not to exceed two years from the date the individual is accepted into diversion or the maximum term of imprisonment provided by law for the most serious offense charged in the complaint, whichever is shorter.

- The hearing must be held no later than 30 days after the finding of incompetence. If the hearing is delayed beyond 30 days, the court must order the defendant to be released on their own recognizance pending the hearing.
- If the defendant performs satisfactorily on diversion, at the end of the period of diversion, the court must dismiss the criminal charges that were the subject of the criminal proceedings at the time of the initial diversion.
- If the court finds the defendant ineligible or unsuitable for diversion, or if any of the specified circumstances exist, the court may, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether to do any of the following:
 - Order modification of the treatment plan in accordance with a recommendation from the treatment provider.
 - Refer the defendant to assisted outpatient treatment. A referral to assisted outpatient treatment may only occur in a county where services are available, and the agency agrees to accept responsibility for treatment of the defendant. A hearing to determine eligibility for assisted outpatient treatment must be held within 45 days after the finding of incompetence. If the hearing is delayed beyond 45 days, the court must order the defendant, if confined in county jail, to be released on their own recognizance pending that hearing. If the defendant is accepted into assisted outpatient treatment, the charges shall be dismissed.
 - Refer the defendant to the county conservatorship investigator in the county of commitment for possible conservatorship proceedings. A defendant must only be referred to the conservatorship investigator if it appears to the court or a qualified mental health expert that the defendant appears to be gravely disabled, as defined. Any hearings required in the conservatorship proceedings must be held in the superior court in the county of commitment. The court must transmit a copy of the order directing initiation of conservatorship proceedings to the county mental health director or the director's designee and must notify the county mental health director or their designee of the outcome of the proceedings. Before establishing a conservatorship, the public guardian must investigate all available alternatives to conservatorship. If a petition is not filed within 30 days of the referral, the court must order the defendant, if confined in county jail, to be released on their own recognizance pending conservatorship proceedings. The charges must be dismissed upon the filing of either a temporary or permanent conservatorship petition unless the basis for the petition is that the defendant is gravely disabled as defined in Welfare and Institutions Code Section 5008(h)(1)(B) (*Murphy* conservatorship).
 - Refer the defendant to the CARE program. A hearing to determine eligibility for the CARE program must be held within 14 court days after the date on which the petition for the referral is filed. If the hearing is delayed beyond 14 court days, the court must order the defendant, if

confined in county jail, to be released on their own recognizance pending that hearing. If the defendant is accepted into the CARE program, the charges must be dismissed.

- Reinstate competency proceedings, in which case the court must credit any time spent in mental health diversion against the maximum term of commitment, as specified.
(Pen. Code, § 1370.01, subd. (a)(1)(B)(i)-(iii).)

Existing law defines “gravely disabled” to mean any of the following:

- A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.
- A condition in which a person has been found IST under Penal Code section 1370 and all of the following facts exist: the complaint, indictment, or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person; there has been a finding of probable cause on a complaint, a preliminary examination, or a grand jury indictment, and the complaint, indictment, or information has not been dismissed; as a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against them and to assist counsel in the conduct of their defense in a rational manner; and the person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.
(Welf. & Inst. Code, § 5008, subd. (h)(1).)

This bill makes changes to the provisions of law that pertain to felony defendants who are IST and ineligible for mental health diversion.

This bill requires, for a defendant referred to assisted outpatient treatment, that the charges are dismissed six months after the date of the referral to assisted outpatient treatment, unless the defendant’s case is referred back to the court before the expiration of that time period. Specifies that this does not alter the confidential nature of assisted outpatient treatment.

This bill requires, for a defendant referred to the county conservatorship investigator, that if the conservatorship proceedings result in the filing of a petition for the establishment of a temporary or permanent conservatorship, the charges are dismissed 90 days after the date of the filing of the petition, unless the case is referred back to the court before the expiration of that time period. Specifies that this does not alter the confidential nature of conservatorship proceedings.

This bill requires, for a defendant referred to CARE court and accepted into the CARE program, the CARE Act court must notify the criminal court of the acceptance, and the charges are dismissed six months after the date of the referral to the CARE program, unless the case is referred back to the court before the expiration of that time period. Specifies that this does not alter the confidential nature of CARE program proceedings, except as otherwise provided.

This bill authorizes a county behavioral health agency and jail medical provider to share confidential medical records and other relevant information with the court, including, but not limited to, prior interactions with and treatment of the defendant, for the purpose of determining

the likelihood of eligibility for behavioral health services and programs. Provides that the disclosure of information is subject to applicable state and federal privacy laws.

Existing law requires the criminal process to resume, and the trial on the offense charged or hearing on the alleged violation to proceed if the defendant charged with a misdemeanor is found mentally competent. (Pen. Code, § 1370.01, subd. (a)(1)(A).)

Existing law requires, if the defendant is found mentally incompetent, the trial, judgment, or hearing on the alleged violation to be suspended and the court to, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether to do one or more of the following:

- Conduct a hearing, and, if the court deems the defendant eligible and suitable, grant mental health diversion for a period not to exceed one year from the date the individual is accepted into diversion or the maximum term of imprisonment provided by law for the most serious offense charged in the misdemeanor complaint, whichever is shorter.
- Refer the defendant to the CARE Act court, if the defendant or counsel for the defendant agrees to the referral and the court has reason to believe that the defendant may be eligible for the CARE program. If the defendant is accepted into the CARE program, the CARE Act court must notify the criminal court of the acceptance, and the charges must be dismissed six months after the date of the referral to the CARE program, unless the defendant's case has been referred back to the court prior to the expiration of that six-month time period. If the defendant is not accepted into the CARE program or if the CARE Act court refers the defendant back to criminal court before the expiration of the six-month time period, the court shall grant mental health diversion if the defendant is eligible and suitable. (Pen. Code, § 1370.01, subd. (b).)

Existing law requires the court, if it finds the defendant ineligible or unsuitable for mental health diversion after notice to the defendant, defense counsel, and the prosecution, to hold a hearing to determine which one of the following actions the court will take:

- Order modification of an existing mental health diversion treatment plan in accordance with a recommendation from the treatment provider.
- Refer the defendant to assisted outpatient treatment.
- Refer the defendant to the county conservatorship investigator in the county of commitment for possible conservatorship proceedings. Provides that a defendant shall only be referred to the conservatorship investigator if, based on the opinion of a qualified mental health expert, the defendant appears to be gravely disabled, as defined.
- Refer the defendant to the CARE Act court.
- If the defendant does not qualify for any of the above services, dismiss the charges. (Pen. Code, § 1370.01, subd. (c).)

Existing law states that it is the intent of the Legislature that a misdemeanor IST defendant receive mental health treatment in a treatment facility and not a jail. (Pen. Code, § 1370.01, subd. (d).)

Existing law authorizes the county behavioral health agency and jail medical providers to share confidential medical records and other relevant information with the court, including, but not limited to, prior interactions with and treatment of the defendant, for the purpose of determining

likelihood of eligibility for behavioral health services and programs pursuant to this section. Specifies that the disclosure of information is subject to applicable state and federal privacy laws. (Pen. Code, § 1370.01, subd. (e).)

Existing law states it is the intent of the Legislature that the court consider all treatment options as provided in this section prior to dismissing criminal charges. Specifies that nothing in Section 1370.01 limits a court's discretion to dismiss charges pursuant to Section 1385. (Pen. Code, § 1370.01, subd. (g).)

This bill allows for a misdemeanor IST defendant, the court to refer the defendant to the county conservatorship investigator in the county of commitment for possible conservatorship proceedings if in its opinion the defendant appears to be gravely disabled, as defined.

COMMENTS

1. Need For This Bill

According to the author:

SB 1401 seeks to align the time frames for dismissal and sharing of information in IST (incompetent to stand trial) cases to allow the court "in addition to a mental health expert" to find that a defendant appears to be gravely disabled in order to facilitate a referral for conservatorship investigation.

This bill would, consistent with similar provisions in Section 1370.01, provide that for felonies under Section 1370, if the defendant is accepted into Assisted Outpatient treatment, has a petition for the establishment of a conservatorship filed, or is accepted into CARE Court, require the court dismiss the charges at specified timeframes.

SB 1401 would also amend Section 1370 to authorize, similar to that in Section 1370.01, the county behavioral health agency and jail medical providers to share confidential medical records and other relevant information with the court for the purpose of determining likelihood of eligibility and suitability for behavioral health services and programs including Assisted Outpatient, CARE, and conservatorship.

Lastly, this bill would amend Section 1370.01 consistent with the nearly identical provision in Section 1370 to authorize the court in a misdemeanor case, in addition to a qualified mental health expert, to make a finding that defendant appears to be gravely disabled to facilitate the referral of a defendant, found to be IST, to the county conservatorship investigator.

2. Mental Competency in Criminal Proceedings

The Due Process Clause of the U.S. Constitution prohibits the criminal prosecution of a defendant who is not mentally competent to stand trial. Existing law provides that if a person has been charged with a crime and is not able to understand the nature of the criminal proceedings or is to assist counsel in his or her defense, the court may determine that the offender is incompetent

to stand trial (IST). (Pen. Code § 1367.) When the court issues an order for a hearing into the present mental competence of the defendant, all proceedings in the criminal prosecution are suspended until the question of present mental competence has been determined. (Pen. Code, §1368, subd. (c).)

In order to determine mental competence, the court must appoint a psychiatrist or licensed psychologist to examine the defendant. If defense counsel opposes a finding on incompetence, the court must appoint two experts: one chosen by the defense, one by the prosecution. (Pen. Code, § 1369, subd. (a).) The examining expert(s) must evaluate the defendant's alleged mental disorder and the defendant's ability to understand the proceedings and assist counsel, as well as address whether antipsychotic medication is medically appropriate. (Pen. Code, § 1369, subd. (b).)

A determination of the defendant's competency to stand trial is generally decided by a jury. (Pen. Code, § 1369.) A formal trial is not required when jury trial has been waived. (*People v. Harris* (1993) 14 Cal.App.4th 984.) The burden of proof is on the party seeking a finding of incompetence. (*People v. Skeirik* (1991) 229 Cal.App.3d 444, 459-460.) Because a defendant is initially presumed competent to stand trial (*Medina v. California* (1992) 505 U.S. 437; Pen. Code, § 1369, subd. (c)(3)), this usually means that the defense bears the burden of proof to establish incompetence. As a result, the defense counsel must first present evidence to support a finding of mental incompetence. The defendant's mental incompetence must be proven by a preponderance of the evidence. (Pen. Code, § 1369, subd. (c)(3).)

For defendants charged with a felony, if after an examination and hearing the defendant is found IST, the criminal proceedings are suspended and the court must order the defendant to be referred to the Department of State Hospitals (DSH), or to any other available public or private treatment facility, including a community-based residential treatment system if the facility has a secured perimeter or a locked and controlled treatment facility, approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status, except as specified. (Pen. Code §§ 1368, subd. (c), 1370, subd. (a)(1)(B).) The court may also make a determination as to whether the defendant is an appropriate candidate for mental health diversion pursuant to Penal Code section 1001.36. (Pen. Code, § 1370, subd. (a)(1)(B).)

The maximum term of commitment for an IST defendant charged with a felony is two years, however, no later than 90 days prior to the expiration of the defendant's term of commitment, if the defendant has not regained mental competence must be returned to the committing court and the court is prohibited from ordering the defendant returned to the custody of DSH. (Pen. Code, § 1370, subd. (c)(1).) With the exception of proceedings alleging a violation of mandatory supervision, or in those instances in which the defendant has been placed under a *Murphy* conservatorship, the criminal action may be dismissed in the interest of justice. (Pen. Code, § 1370, subd. (d).)

For defendants charged with a misdemeanor, if the defendant is found IST, the proceedings must be suspended and the court may do either of the following: 1) conduct a hearing to determine whether the defendant is eligible for mental health diversion; or 2) dismiss the charges pursuant to Penal Code section 1385. (Pen. Code, § 1370.01, subd. (b).)

If a misdemeanor defendant is found eligible for diversion, the court may grant mental health diversion for a period not to exceed one year from the date the individual is accepted into diversion or the maximum term of imprisonment provided by law for the most serious offense charged in the complaint, whichever is shorter. (Pen. Code, § 1370.01, subd. (b)(1)(A).)

If the court finds that the defendant is not eligible for diversion, the court may, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether to do any of the following: 1) order modification of the treatment plan in accordance with a recommendation from the treatment provider; 2) refer the defendant to assisted outpatient treatment (AOT); if the defendant is accepted into AOT, the charges shall be dismissed; 3) refer the defendant to the county conservatorship investigator for possible conservatorship if the defendant appears to be gravely disabled, as defined; if a conservatorship is established, the charges shall be dismissed; or 4) refer the defendant to the CARE program; if the defendant is accepted into CARE the charges shall be dismissed. (Pen. Code, § 1370.01, subd. (c).)

3. Dismissals in the Interest of Justice

Penal Code section 1385 gives discretion to judges to strike or dismiss a prior conviction or added punishment in the interests of justice. The California Supreme Court has ruled that even if a statute prescribing a particular sentence uses the term “shall,” this is insufficient to evidence an intent that the trial court was precluded from exercising such discretionary powers. (See *People v. Williams* (1981) 30 Cal.3d 470.) In *Williams*, the Court reviewed the history and purpose of Penal Code section 1385:

The trial court’s power to dismiss an action has been recognized by statute since the first session of the Legislature in 1850. The rules of criminal procedure enacted in that session included the provision that “[the] Court may, either of its own motion, or upon the application of the District Attorney, and in furtherance of justice, order any action, after indictment, to be dismissed; but in such case the reasons of the dismissal shall be set forth in the order, which must be entered on the minutes.” (Stats. 1850, ch. 119, § 629, p. 323.) With slight changes, this provision became section 1385 when the Penal Code was enacted in 1872.

....

“A determination whether to dismiss in the interests of justice after a verdict involves a balancing of many factors, including the weighing of the evidence indicative of guilt or innocence, the nature of the crime involved, the fact that the defendant has or has not been incarcerated in prison awaiting trial and the length of such incarceration, the possible harassment and burdens imposed upon the defendant by a retrial, and the likelihood, if any, that additional evidence will be presented upon a retrial. When the balance falls clearly in favor of the defendant, a trial court not only may but should exercise the powers granted to him by the Legislature and grant a dismissal in the interests of justice.” (*People v. Superior Court of Marin County (Howard)* (1968) 69 Cal. 2d 491, 505.)

The court also discussed the policy served by [the section at issue in the case]. “Mandatory, arbitrary or rigid sentencing procedures invariably lead to unjust results. Society receives maximum protection when the penalty, treatment or disposition of the offender is tailored to the individual case. Only the trial judge

has the knowledge, ability and tools at hand to properly individualize the treatment of the offender. Subject always to legislative control and appellate review, trial courts should be afforded maximum leeway in fitting the punishment to the offender.” (*People v. Dorsey* (1972) 28 Cal.App3d 15, 18.)

(*People v. Williams, supra*, 30 Cal.3d at 479-482.) The Court then looked to the legislative intent and found that there was no indication of contrary legislative intent and thus held that absent a clear expression of legislative intent in this regard, a sentencing statute will not be construed to abrogate a trial court’s general section 1385 power to strike. (*Id.* at p. 482.)

Likewise, striking the express authority in a separate statute for a court to dismiss charges pursuant Penal Code 1385 does not abrogate the court’s power to exercise its discretion to do so when the court finds that this would be in furtherance of justice.

Both Penal Code sections 1370 (felony IST) and 1370.01 (misdemeanor IST) require the dismissal of charges if the defendant is referred and accepted to AOT or CARE court, or placed under conservatorship. While Penal Code section 1370.01 specifies the timeframe for the dismissal of charges to occur (e.g., 6 months after the date of referral to AOT, 90 days after the date of the filing of the petition for the establishment of conservatorship, etc.), Penal Code section 1370 does not explicitly state the timelines for the dismissal of charges. This bill addresses that by amending Penal Code section 1370 to include the same timelines for dismissals as contained in Section 1307.01.

This bill also amends Penal Code section 1370 to allow a county behavioral health agency and jail medical provider to share confidential medical records and other relevant information with the court, including, but not limited to, prior interactions with and treatment of the defendant, for the purpose of determining the likelihood of eligibility for behavioral health services and programs. This language is codified in Penal Code section 1370.01.

Finally, this bill allows the court to refer a misdemeanor IST defendant to the county conservatorship investigator in the county of commitment for possible conservatorship proceedings if in its opinion the defendant appears to be gravely disabled. This language mirrors language in Penal Code section 1370 that authorizes the court to make the referral. Opponents of the bill argue that a judge is not the appropriate person to opine on a defendant’s mental health condition or whether they may meet the criteria to be considered “gravely disabled.” Under current law, the defendant can only be referred to the conservatorship investigator if, based on the opinion of a qualified mental health expert, the defendant appears to be gravely disabled. Committee members may wish to consider whether judges should also be authorized to make that referral.

4. Argument in Support

According to the California State Association of Psychiatrists:

SB 1401... would align procedures for individuals found incompetent to stand trial (IST) across misdemeanor and felony cases to ensure more consistent and effective pathways to treatment.

Under current law, key procedural elements—such as timelines for dismissal, the ability to share relevant information with the court, and standards for determining grave disability—are not aligned between misdemeanor and felony IST cases.

These inconsistencies can delay referrals to appropriate treatment options, including conservatorship, CARE Court, and Assisted Outpatient Treatment, and can limit the court’s ability to make timely and informed decisions about patient care.

SB 1401 addresses these gaps by aligning timeframes for dismissal and authorizing appropriate information sharing between behavioral health providers and the court to support determinations of eligibility for treatment programs. The bill also allows courts, in addition to mental health experts, to determine when a defendant appears to be gravely disabled in order to facilitate referral for conservatorship investigation. By creating greater consistency across case types, SB 1401 improves coordination between the courts and behavioral health systems and helps ensure individuals are connected to appropriate care in a timely manner.

5. Argument in Opposition

Disability Rights California writes:

...SB 1401... would interfere with the patient-therapist relationship and consequently threaten the effectiveness of mental health treatment, raise significant due process concerns, and disproportionately harm people of color, all without advancing public safety.

SB 1401 would authorize medical providers to share “confidential medical records” and other information “including, but not limited to, prior interactions with and treatment of the defendant” with courts, which would threaten the effectiveness of our entire mental health system.

First, if people fear that any information they disclose to their providers could be used against them, fewer people would be willing to voluntarily seek mental health support to begin with. California should be working towards creating greater access to voluntary mental health care, not constructing barriers to it.

Second, even people who are still willing to voluntarily seek mental health support would be less willing to disclose information to their providers out of fear that it could be used against them in the future. This would undermine the effectiveness of mental health treatment because a trusting therapeutic relationship is critical for a client’s engagement in treatment, adherence to a medication plan, management of symptoms, overall treatment outcomes, and quality of life.

This bill would allow a court to bypass essential due process safeguards in conservatorship proceedings. Specifically, the bill would permit a criminal judge, rather than a person with a mental health license, to refer someone to conservatorship proceedings.

In a conservatorship, an adult may be stripped of their fundamental civil liberties to make decisions about their own health, finances, where they live, and how they live their life. The existing Penal Code recognizes the seriousness of such a referral and thus reserves it for individuals who hold the requisite qualifications. SB 1401 would allow for someone to be referred to a mental health conservatorship without even being seen by a qualified mental health expert. Given the significant deprivation of liberty involved, the standard for conservatorship should be rigorous – not diluted.

As an additional due process protection, existing law requires that the individual who makes a conservatorship referral is not of the same body – the court – that would make a final decision on the disposition of that referral. By cutting out mental health experts and allowing the process to start at the end, SB 1401 would bypass critical protections and deny individuals due process before their rights are taken away.

This change would increase the number of people who may initiate conservatorship investigations, subsequently increasing the volume and risk of inappropriate conservatorships.

...

... [T]his bill would substantially increase unnecessary, inappropriate, and cost-intensive conservatorships. A recent UCLA study on mental health conservatorships among homeless people with serious mental illness concluded that “reliance on conservatorships as a means to secure both longer-term shelter and mental health treatment is a signal of systemic gaps in California’s safety-net systems of care.”

In addition, criminal judges would need significant training on the conservatorship process, which would be time-consuming and costly.

Rather than continuing to cycle people through homelessness, incarceration, and mental health interventions that are unnecessary and ineffective, we must prioritize and fully fund services that break cycles and lead to stability. These include full-service partnerships – a “whatever it takes” approach to providing individualized, comprehensive services to individuals who are unhoused, at risk of becoming unhoused, who have a serious mental illness, and who may have a history of criminal justice involvement or recent hospitalization – and supportive housing – housing paired with supportive services that has been shown to lead to significant reductions in shelter use, hospitalizations, incarceration, and re-incarceration.

-- END --