
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 1401 (Stern) - Criminal procedure: competence to stand trial

Version: February 20, 2026

Urgency: No

Hearing Date: April 27, 2026

Policy Vote: PUB. S. 6 - 0

Mandate: No

Consultant: Bob Franzoia

Bill Summary: SB 1401 would revise criminal procedures for felony defendants who are incompetent to stand (IST) and ineligible for mental health diversion, including: (1) specifying timelines for the dismissal of felony charges for a defendant who is IST (2) and referred to specific county programs. This bill would make related changes including permitting a court to refer a misdemeanor IST defendant to a county conservatorship investigator for possible conservatorship proceedings if in its opinion the defendant appears gravely disabled.

Fiscal Impact: This bill will have moderate to significant cost pressure on the trial courts up to \$600,000 annually. There would be calendaring cost pressures from felony IST cases referred back to court, which would then require additional hearings.

Hearing workload costs are difficult to estimate as the courts are not funded based on workload but instead funded largely based on judicial positions and needed staff, which may include additional security costs for IST cases. Estimating anticipated populations is difficult, as well. This analysis estimates that up to 700 felony IST cases statewide may come back to the courts though these cases are not expected to be lengthy. Court costs are based on an hourly rate of \$1,300 (this rate does not include clerk and staff time outside of the hearing time).

Background: 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 and/or is not able to assist counsel in his or her defense, the court may determine that the offender is IST. 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.

For defendants charged with a misdemeanor, if they are declared IST, the proceedings shall be suspended, and the court shall 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 in the interests of justice. Also, if the court finds that the defendant is not eligible for diversion, the court shall, 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; 3) refer the defendant to the county conservatorship investigator for possible conservatorship if the defendant appears to be gravely disabled, as defined; or, 4) refer the defendant to the CARE program.

Proposed Law: 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 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.

Related Legislation: SB 1400 (Stern) Chapter 647/2024 removes statutory authority for a court to dismiss a misdemeanor case where a defendant has been found IST and instead requires the court to determine if the defendant is eligible for treatment.