

SENATE THIRD READING

SB 820 (Stern)

As Amended July 7, 2025

Majority vote

SUMMARY

Authorizes, until January 1, 2030, a separate process to involuntarily medicate individuals charged with a misdemeanor who have been found to be incompetent to stand trial (IST), as specified.

Major Provisions

- 1) States, notwithstanding existing procedures for involuntary medication of pretrial county jail inmates, if an individual charged with a misdemeanor and who is confined in county jail has been found IST, antipsychotic medication may be administered without the defendant's informed consent in either an emergency, as defined, or upon a court's determination that the defendant is gravely disabled, as defined, and does not have the capacity to consent to or refuse treatment with antipsychotic medication.
- 2) Provides that in case of an emergency, the following procedures apply:
 - a) Antipsychotic medication may, despite the individual's objection, be administered before a capacity hearing if the medication is necessary to address the emergency condition and is administered in the least restrictive manner, only for the duration of the emergency, and in no case for more than 72 hours, except as provided below.
 - b) If a psychiatrist determines that continued administration of antipsychotic medication is necessary beyond the initial 72 hours and the individual does not consent to take the medication voluntarily, the psychiatrist may petition the superior court in the county where the individual is confined to order continued treatment with antipsychotic medication.
 - c) The petition and written notice describing the diagnosis, the factual basis for the diagnosis, the expected benefits of the medication, any potential side effects and risks of the medication, and any alternatives to treatment with the medication shall be filed within the initial 72-hour period that the antipsychotic medication is administered and served on the individual and their counsel.
- 3) Defines an "emergency" by way of reference to existing provisions of law, as either:
 - a) A situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment; or,
 - b) When there is a sudden and marked change in an inmate's mental condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others, and it is impractical, due to the seriousness of the emergency, to first obtain informed consent.
- 4) Defines "gravely disabled" by way of reference to existing law as 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.
- 5) Provides that upon a court's determination that an individual is gravely disabled and that the individual does not have the capacity to consent to or refuse treatment with antipsychotic

medication, the court shall consider opinions in the reports prepared by a licensed psychologist or psychiatrist evaluating the individual's competency as applicable to the issue of whether the individual lacks the capacity to make decisions regarding the administration of antipsychotic medication, and shall proceed as follows:

- a) The court shall conduct a hearing, which may occur at the same time as the competency hearing, before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer to determine whether any of the following is true:
 - i) Based upon the opinion of the psychiatrist or licensed psychologist offered to the court, the individual lacks the capacity to make decisions regarding antipsychotic medication, the individual's mental disorder requires medical treatment with antipsychotic medication, and, if the individual's mental disorder is not treated with antipsychotic medication, it is probable that serious harm to the physical or mental health of the individual will result. Probability of serious harm to the physical or mental health of the individual requires evidence that the individual is presently suffering adverse effects to their physical or mental health, or the individual has previously suffered these effects as a result of a mental disorder and their condition is substantially deteriorating. The fact that an individual has a diagnosis of a mental disorder does not alone establish probability of serious harm to the physical or mental health of the individual.
 - ii) Based upon the opinion of the psychiatrist or licensed psychologist offered to the court, the individual is a danger to others, in that the individual has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the individual had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another that resulted in the individual being taken into custody, and the individual presents, as a result of mental disorder or mental defect, a danger of inflicting substantial physical harm to others.
 - b) If the court finds the conditions described above to be true, and has considered the requisite conditions as specified in 8) below, and if pursuant to the opinion offered to the court on the individual's competency, a psychiatrist or licensed psychologist has opined that treatment with antipsychotic medication may be appropriate for the individual, the court may issue an order authorizing the administration of antipsychotic medication as needed, including on an involuntary basis, to be administered under the direction and supervision of a licensed psychiatrist.
- 6) States that the fact that an individual has temporary access to food, clothing, shelter, personal safety, and necessary medical care while incarcerated is not a basis to conclude that the individual is able to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care, which shall be evaluated based upon the individual's ability to provide for those needs while not incarcerated.
- 7) Provides the following rights to an individual before an order authorizing involuntary medication:
- a) To receive written notice of the diagnosis, the factual basis for the diagnosis, the expected benefits of the medication, any potential side effects and risks of the medication, and any alternatives to treatment with the medication;
 - b) To be represented by counsel at all stages of the proceedings;
 - c) To receive timely access to their medical records and files;
 - d) To be present at all stages of the proceedings; and,

- e) To present evidence and cross-examine witnesses.
- 8) States that after the hearing, a court may order involuntary medication to be administered if the court finds by clear and convincing evidence that all of the following conditions are met:
- a) A psychiatrist or psychologist has determined that the individual has a serious mental health disorder that can be treated with antipsychotic medication;
 - b) A psychiatrist or psychologist has determined that, as a result of that mental health disorder, the individual is gravely disabled and lacks the capacity to consent to, or refuse treatment with, antipsychotic medications;
 - c) That serious harm to the physical or mental health of the individual is likely to result absent treatment with antipsychotic medication;
 - d) A psychiatrist has prescribed one or more antipsychotic medications for the treatment of the individual's disorder, has considered the risk, benefits, and treatment alternatives to involuntary medication, and has determined that the treatment alternatives to involuntary medication are unlikely to meet the needs of the individual;
 - e) The individual has been advised of the expected benefits of any potential side effects and risks to the individual, any alternatives to treatment with antipsychotic medication, and refuses, or is unable to consent to, the administration of the medication;
 - f) The jail has made a documented attempt to locate an available bed for the individual in a community-based treatment facility in lieu of seeking to administer involuntary medication. If a community-based alternative is not available, medication shall only be administered by noncustody, health care staff and individuals will be monitored at least every 15 minutes for at least one hour after administration of medication; and,
 - g) There is no less intrusive alternative to the involuntary administration of antipsychotic medication, and involuntary administration of the medication is in the individual's best medical interest.
- 9) Prohibits the individual's confinement from being extended to provide treatment to the individual with antipsychotic medication.
- 10) States that an order authorizing administration of antipsychotic medication shall be valid until the first of the following events occurs:
- a) 90 days from the date the individual is found IST;
 - b) 90 days after the date when the individual is referred to Community Assistance, Recovery, and Empowerment (CARE) court, assisted outpatient treatment or county conservatorship;
 - c) Upon order of any court with jurisdiction over the individual including the programs listed above; or,
 - d) The individual is released from custody.
- 11) Requires the court to review the order no more than 60 days after an involuntary medication order is issued to determine whether the grounds for the order remains.
- 12) States that a person who is subject to the court's order to involuntarily receive medication has the legal and civil rights set forth in the Lanterman-Petris-Short Act.

- 13) Specifies that an individual is not precluded from filing a petition for habeas corpus to challenge the continuing validity of an order authorizing the administration of antipsychotic medication.
- 14) Provides that when a person in custody is transferred from a jail to a 72-hour facility for treatment and evaluation, the fact that the person has temporary access to food, clothing, shelter, personal safety, and necessary medical care while incarcerated is not a basis to conclude that the person is able to provide for their basic personal needs, which shall be evaluated based upon the person's ability to provide for those needs outside the jail setting.
- 15) Sunsets its provisions on January 1, 2030 unless a later enacted statute deletes or extends the date.

COMMENTS

According to the Author

"California is facing mental health and homelessness crises, where vulnerable individuals are cycling in and out of our jails without getting adequate treatment. While the state has made massive investments in behavioral health infrastructure, it's going to take time for new beds to come online. In the meantime, demand is urgent and growing. Jails have become de facto treatment facilities, leaving vulnerable Californians who need treatment with minimal support and resources. The problem is acute for those declared incompetent to stand trial (IST) for a misdemeanor, who are experiencing severe mental health crises and have particularly high rates of recidivism. SB 820 builds on efforts to keep these individuals safe, out of the criminal justice system, and getting the help they need by granting doctors the discretion to use the medical treatment they deem most appropriate, including involuntary medication. By allowing involuntary medication orders during the crucial period between the IST hearing and the proffer of services, including mental health diversion and assisted outpatient treatment, this bill will prevent further deterioration while these individuals are in custody, bringing targeting resources to an already identified, impacted population to improve the likelihood that they are accepted into and consent to diversion options. SB 820 keeps existing protections while enabling these vulnerable individuals to access the treatment they need to stabilize, reintegrate into society, and achieve recovery."

Arguments in Support

According to *California State Association of Psychiatrists*, the sponsor of this bill, "In the event of a defendant lacking mental competency to understand court proceedings, a judge may find them incompetent to stand trial (IST). In such cases, they are then offered alternatives, such as mental health diversion and assisted outpatient treatment (AOT). However, many defendants do not access these alternatives due to the severity of their symptoms and the fact that these programs remain voluntary. Should they be found ineligible or refuse to participate, their cases are typically dismissed with no further requirements of behavioral health services. This gap in care has severe consequences on recidivism rates and homelessness for this population despite them having been identified by the court as exceedingly vulnerable.

"SB 317 (Stern, 2021) made significant updates to the IST system for misdemeanor offenses. However, it inadvertently limited the ability of psychiatrists to utilize all available tools at their disposal, including involuntary medication. Regardless of medical necessity, there is currently no mechanism to compel these individuals to take prescribed medication – a crucial tool in stabilizing patients.

"California faces a significant and ongoing shortage of bed space. Because of this, these individuals often spend extended periods in jail while their mental health declines, ultimately making successful reintegration even more difficult. Until infrastructure catches up to demand, it is vital that the ability to provide involuntary medication during the crucial period between the IST hearing and the proffer of services be reinstated – exactly what SB 820 aims to do while retaining existing protections. Doing so will improve their chances of accepting and benefiting from treatment while reducing recidivism and homelessness."

Arguments in Opposition

According to *Initiate Justice*, "SB 820 would create a new mechanism for issuing involuntary medication orders for incarcerated persons in county jail who face misdemeanor charges and have been deemed incompetent to stand trial. The author states this is necessary because there are insufficient treatment facilities. We oppose SB 820 for the following reasons.

I. Administering involuntary medication without sufficient clinical oversight is dangerous.

"SB 820 would expand the authority of county jails to administer involuntary psychiatric medications in general population units rather than in clinical settings. Administering such medications without proper oversight can have fatal consequences. Antipsychotic medications, for example, carry a black box warning because they can be lethal for individuals with dementia-related psychosis. Determining the underlying cause of psychosis is particularly challenging in jail settings, where correctional officers often lack the necessary training to recognize medication side effects. Moreover, incarcerated individuals may have limited ability to report concerns to medical staff.

"Individuals administered involuntary medication are under close observation in clinical settings. Designated behavioral health treatment centers maintain 24-hour clinical staff who conduct regular rounds and closely monitor patients. Under existing law, many individuals subject to involuntary medication in county jails are taken to designated mental health Correctional Treatment Centers (CTCs). CTCs have similar requirements for staffing ratios, staff licensure, treatment planning, and discharge planning as designated behavioral health treatment centers in the community. SB 820 would allow jails to involuntarily medicate individuals without transferring them to designated behavioral health treatment centers or CTC units. By expanding the ability of county jails to administer involuntary medications outside clinical settings, SB 820 undermines existing safeguards and increases the risk of serious harm or death.

II. SB 820 will incentivize counties to hold individuals in jail for treatment, backsliding efforts to divert people with serious mental illness from jail.

"Individuals with serious mental illness quickly deteriorate in jail and are at heightened risk of abuse and neglect. State and local efforts are underway to divert individuals with mental illness from jail and provide treatment in the community. By creating a new mechanism for involuntary medication orders, SB 820 risks incentivizing counties to rely on jails for mental health treatment rather than investing in community-based care."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, "Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but likely significant amount, possibly in the low millions of dollars annually, to the courts to conduct additional hearings and for medical evaluations and expert testimony. Judicial Council estimates costs of \$1.77 million to \$4.25 million annually ongoing to fulfill these responsibilities. Within that estimate, Judicial Council attributes approximately half of the costs to additional hearings that may not occur in conjunction with a

competency hearing, and additional hearing time to consider involuntary medication orders. Judicial Council attributes the other half of the costs to psychiatric evaluations and for court-appointed evaluators' testimony at hearings. Judicial Council notes there is currently a shortage in psychiatric evaluators in many parts of the state and there may be delays in scheduling these hearings due if, due to the shortage, courts are unable to timely obtain the required evaluation.

"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 fiscal year (FY) 2025-26 state budget provides \$82 million ongoing General Fund to the Trial Court Trust Fund for court operations. Judicial Council notes that beginning in FY 2025-26, the trial courts are handling an ongoing \$55 million reduction to their operational funding, which impacts their ability to provide core services. Judicial Council reports this bill will result in new, unfunded workload for the trial courts, putting additional pressure on their limited resources."

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNeerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Reyes

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, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache, Ta, Tangipa

UPDATED

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