
UNFINISHED BUSINESS

Bill No: SB 820
Author: Stern (D)
Amended: 7/7/25 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 4/29/25

AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

SENATE FLOOR: 39-0, 5/27/25

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

NO VOTE RECORDED: Reyes

ASSEMBLY FLOOR: 51-1, 9/10/25 – Roll call not available.

SUBJECT: Inmates: mental health

SOURCE: Author

DIGEST: This bill 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.

Assembly Amendments of 7/7/25

- 1) Revise the procedures and specify an individual's rights before an order authorizing the administration of involuntary medication may be issued.
- 2) Specify 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.

- 3) Sunset its provisions on January 1, 2030, unless a later enacted statute deletes or extends the date.

ANALYSIS:

Existing law:

- 1) Provides that a person shall not be tried or adjudged to punishment while mentally incompetent. (Penal (Pen.) Code, § 1367, subd. (a).)
- 2) Specifies procedures for inquiring into and determining mental competence, including suspending criminal proceedings, as specified. (Pen. Code, § 1368, subd. (b) & (c).)
- 3) Requires, if the defendant is found mentally competent, the criminal process to resume, and the trial on the offense charges to proceed. (Pen. Code, §§ 1370; 1370.01.)
- 4) Establishes the procedures for the treatment of individuals found IST and charged with a misdemeanor, as follows:
 - a) The trial, judgment, or hearing on the alleged misdemeanor is suspended and the court must conduct a hearing on whether the defendant is eligible for mental health diversion;
 - b) If the court finds that the defendant is not eligible for diversion, the court must hold a hearing to determine which of the following actions to take:
 - i) Order modification of an existing mental health diversion treatment plan in accordance with a recommendation from a treatment provider;
 - ii) Refer the defendant to outpatient treatment;
 - iii) Refer defendant for possible conservatorship proceedings;
 - iv) Refer the defendant to the Community Assistance, Recovery and Empowerment (CARE) program; or
 - v) Dismiss the charges if the defendant does not qualify for these services; and,
 - c) If the misdemeanor charges are dismissed, and the individual is not receiving the above-described services, the court must notify the defendant of their need for mental health services. The court shall additionally provide

the individual with contact information of specified mental health services. (Pen. Code, §§ 1370.01, 1370.2; Welf. & Inst. Code, § 5623.6, subd. (b); Cal. Rules of Court, rule 4.130, subds. (f)(1) & (3).)

- 5) States the Legislature's intent that the court consider all treatment options, as provided, prior to dismissing criminal charges but allows the court to dismiss any misdemeanor charges pending against a defendant found IST in the interests of justice. (Pen. Code, §§ 1370.01, subd. (e), 1385.)
- 6) States the Legislature's intent that a defendant subject to the misdemeanor IST procedures receive mental health treatment in a treatment facility and not a jail. (Pen. Code, § 1370.01, subd. (c).)
- 7) Allows the court to dismiss any misdemeanor charges pending against a defendant found IST. (Pen. Code, § 1370.2.)
- 8) Requires the court to dismiss the criminal charges at the end of the diversion period if the individual performs satisfactorily on diversion. (Pen. Code, § 1370.01, subd. (e).)
- 9) Establishes mental health diversion for misdemeanor and felony offenses and sets forth eligibility requirements. (Pen. Code, §§ 1001.35 & 1001.36.)
- 10) Authorizes the administration of psychotropic medication on an involuntary basis to a defendant confined in the county jail if a psychiatrist determines that they should be treated with psychiatric medication, specified procedures are followed, and the treatment is consistent with the standard of care. (Pen. Code, § 2603, subd. (b).)
- 11) Specifies that, on a non-emergency basis, a county department of mental health, or other designated county department, may administer involuntary psychiatric medication to a defendant confined in the county jail only if all of the following conditions have been met:
 - a) A psychiatrist or psychologist has determined that the inmate has a serious mental disorder;
 - b) A psychiatrist or psychologist has determined that, as a result of that mental disorder, the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medications, or is a danger to self or others;

- c) A psychiatrist has prescribed one or more psychiatric medications for the treatment of the inmate's disorder, has considered the risks, 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 patient;
- d) The inmate has been advised of the risks and benefits of, and treatment alternatives to, the psychiatric medication and refuses, or is unable to consent to, the administration of the medication;
- e) The jail has made a documented attempt to locate an available bed for the inmate in a community-based treatment facility in lieu of seeking to administer involuntary medication. The jail shall transfer that inmate to such a facility only if the facility can provide care for the mental health needs, and the physical health needs, if any, of the inmate and upon the agreement of the facility;
- f) The inmate is provided a hearing before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer:
 - i) If the inmate is in custody awaiting trial, including an inmate whose criminal proceedings are suspended for competency proceedings, the hearing and any ex parte orders shall be submitted to a judge in the superior court where the criminal case is pending; and,
 - ii) A superior court judge may consider whether involuntary medication would prejudice the incarcerated person's defense;
- g) The inmate is provided counsel at least 21 days prior to the hearing, unless emergency medication is being administered, in which case the inmate would receive expedited access to counsel, as specified;
- h) The inmate and counsel are provided with written notice of the hearing at least 21 days prior to the hearing, unless emergency or interim medication is being administered, in which case the inmate would receive an expedited hearing;
- i) In the hearing, the superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer determines by clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness, the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to

involuntary medication, and that the medication is in the inmate's best medical interest;

- j) The historical course of the inmate's mental disorder, as determined by available relevant information about the course of the inmate's mental disorder, shall be considered when it has direct bearing on the determination of whether the inmate is a danger to self or others, or is gravely disabled and incompetent to refuse medication as the result of a mental disorder; and,
 - k) An inmate is entitled to file one motion for reconsideration following a determination that they may receive involuntary medication, and may seek a hearing to present new evidence, upon good cause shown. This does not prevent a court from reviewing, modifying, or terminating an involuntary medication order for an inmate awaiting trial if there is a showing that the involuntary medication is interfering with the inmate's due process rights in the criminal proceeding. (Pen. Code, § 2603, subd. (c).)
- 12) Provides that a physician may take appropriate action in an emergency. (Pen. Code, § 2603, subd. (d).)
- 13) States that an emergency exists 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. (Pen. Code, § 2603, subd. (d)(1)(A).)
- 14) Specifies that if psychiatric medication is administered to a person incarcerated in the county jail on an emergency basis, the medication shall only be that which is required to treat the emergency condition and shall be administered for only so long as the emergency continues to exist. (Pen. Code, § 2603, subd. (d)(1)(B).)
- 15) States that if the clinicians of the county department of mental health, or other designated county department, identify a situation that jeopardizes the inmate's health or well-being as the result of a serious mental illness, and necessitates the continuation of medication beyond the initial 72 hours pending the full mental health hearing, the county department may seek to continue the medication by giving notice to the inmate and their counsel of its intention to seek an ex parte order to allow the continuance of medication pending the full hearing. If an order is issued, the psychiatrist may continue the administration of the medication until the hearing is held. (Pen. Code, § 2603, subd. (d)(2)(A).)

- 16) Specifies that in any case in which it appears to the person in charge of a jail, or juvenile detention facility, or to a judge, that a person in custody in that jail or juvenile detention facility may be mentally disordered, they may cause the prisoner to be taken to a facility for 72-hour treatment and evaluation and they shall inform the facility in writing, which shall be confidential, of the reasons that the person is being taken to the facility. (Pen. Code, § 4011.6; Welf. & Inst. Code, § 5150.)
- 17) Provides that an order by the court authorizing involuntary medication of an inmate shall be valid for no more than one year. In the case of an incarcerated person awaiting arraignment, trial or sentencing, the order shall be valid for no more than 180 days and the court shall review the order at intervals of not more than 60 days to determine whether the ground for the order remains. At each review, the psychiatrist shall file an affidavit with the court that ordered the involuntary medication affirming that the person who is the subject of the order continues to meet the criteria for involuntary medication. A copy of the affidavit shall be provided to the defendant and the defendant's attorney. (Pen Code, § 2603, subd. (e)(1).)
- 18) States that in determining whether the criteria for involuntary medication still exist, the court shall consider the affidavit of the psychiatrist or psychiatrists and any supplemental information provided by the defendant's attorney. The court may also require the testimony from the psychiatrist, if necessary. The court, at each review, may continue the order authorizing involuntary medication, vacate the order, or make any other appropriate order. (Pen Code, § 2603, subd. (e)(1).)
- 19) States that if a determination has been made to involuntarily medicate a county jail inmate, the medication shall be discontinued one year after the date of that determination, unless the inmate gives their informed consent to the administration of the medication, or unless a new determination is made pursuant to the procedures set forth above. (Pen. Code, § 2603, subd. (f).)

This bill:

- 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) 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.
- 7) 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.
- 8) Prohibits the individual's confinement from being extended to provide treatment to the individual with antipsychotic medication.
- 9) 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.

- 10) 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.
- 11) 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.
- 12) 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.
- 13) 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.
- 14) Sunsets its provisions on January 1, 2030 unless a later enacted statute deletes or extends the date.

Background

This bill creates an alternative process to allow involuntarily medication of persons who are confined in the county jail and have been found IST after being charged with a misdemeanor. The bill provides for the ability to involuntarily medicate in an emergency situation, as defined, or where a court has found a defendant to be gravely disabled and without the capacity to refuse treatment with psychiatric medication.

According to information provided by the author's office, this bill is necessary because when SB 317 (Stern), Chapter 99, Statutes of 2021, made significant updates to the IST system for misdemeanor offenses, streamlining access to treatment and reducing jail time, it inadvertently limited the ability of psychiatrists to utilize all available tools at their disposal, including involuntary medication. "Regardless of medical necessity, the severity of an individual's condition, or how negatively it impacts their wellbeing and treatment access, there is no mechanism to compel individuals to take prescribed medication if they refuse."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

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.

SUPPORT: (Verified 9/10/25)

California State Association of Psychiatrists (Sponsor)
Alameda County Families Advocating for the Seriously Mentally Ill
California Big City Mayors Coalition
California Medical Association
California State Sheriffs' Association
City of San Diego
Family Advocates for Individuals With Serious Mental Illness of Sacramento
National Alliance on Mental Illness
Steinberg Institute
Treatment Advocacy Center
Private Individual

OPPOSITION: (Verified 9/10/25)

ACLU California Action
Cal Voices
California Coalition for Women Prisoners
California Peer Watch
Courage California
Disability Rights California
Justice2jobs Coalition Sacramento
Initiate Justice
LA Defensa
Survived & Punished

ARGUMENTS IN SUPPORT:

According to the California State Association of Psychiatrists, the sponsor of this bill:

SB 820 . . . ensures that a defendant found incompetent to stand trial (IST) for a misdemeanor offense is provided the appropriate medical treatment and supportive services needed for them to achieve wellness.

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 California Peer Watch:

SB 820 would authorize a psychiatrist to administer psychiatric medication to a defendant without their informed consent. While the bill indicates that this would be only on an emergency basis when it is impracticable to first gain consent, this criterion has been regularly abused to justify inappropriate forced treatment over the years, and increasingly in the past three years.

The bill would authorize a psychiatrist to involuntarily administer psychiatric medication to those defendants upon a court's determination that the defendant does not have the capacity to refuse treatment and is gravely disabled on the basis that they, 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, are unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care. These criteria also constitute boilerplate language used to justify forced treatment.

While we understand that many freedoms are denied to inmates, their basic human and constitutional rights should not be violated.

**** **END** ****