

**2024-25 Governor's Budget
Department of State Hospitals
Proposed Trailer Bill Legislation**

FACT SHEET

Issue Title: Incompetent to Stand Trial (IST) Solutions

The purpose of this TBL is to clarify the statutory authority provided to implement various IST solutions authorized in the 2022 Budget Act. The various IST solutions increase access to care for individuals deemed IST on felony charges and help provide timely access to treatment for IST patients awaiting placement to a Department of State Hospitals (DSH) facility for restoration of competency treatment.

Background and History:

Beginning in fiscal year (FY) 2012-13, DSH began to experience an increase in the number of IST defendants committed and referred to the department which, over the subsequent years, continued to grow and outpace the number of new beds, programs and process efficiencies implemented by DSH in response to this growing population. Informed by the IST Solutions Workgroup established in the fall of 2021 and as authorized in the 2022 Budget Act, DSH implemented short-term solutions that would have an immediate impact to the DSH wait list and wait times and provide timely access to services for ISTs through the provision of early stabilization and treatment for ISTs in jail, and refining and increasing re-evaluation services to identify ISTs who have already restored to competency and return them to court. In tandem, DSH is working on implementing long-term solutions authorized in the budget that focus on investment in community-based restoration and diversion housing infrastructure and treatment services to increase the number of IST individuals treated in community settings.

The IST Solutions funded in FY 2022-23 have helped DSH to reduce the IST waitlist and wait times to commence substantive IST treatment services. As of July 4, 2022, the number of IST defendants pending placement to a DSH treatment program was 1,739 and the average time to initiate treatment services was over 110 days compared to 419 on the waitlist as of February 12, 2024, with an average time to initiate treatment services for ISTs of less than 30 days.

Justification for the Change:

This TBL will address issues that will help improve program efficiencies in the management of the IST waitlist and utilization of treatment program beds. These proposed changes will clarify when competent individuals can remain at DSH when needed to maintain competency; facilitate California identification cards for discharging patients to support successful transitions to the community; clarify DSH records access to reduce admissions barriers and establish a waitlist management

process for IST individuals referred to DSH but who are not available for admission after release from custody; and update the data reporting timeline for county-operated DSH diversion programs from quarterly to monthly submissions. The TBL includes the following changes:

Amend Penal Code 1370 to:

- Clarify that DSH has the authority to receive medical records for individuals committed to DSH and require public and private medical facilities to provide such records upon request.
- Provide a mechanism to remove individuals who are out of the Sheriff's custody from DSH's waitlist if the individual is not delivered by the Sheriff to a DSH facility after DSH has made reasonable efforts to coordinate with the Sheriff for admission of the individual and after a final 90-day notification to the court that DSH has a bed available for that individual. Would also provide a mechanism for a court to notify DSH in writing, if an individual, who has been removed for the waitlist under this provision, is subsequently remanded and becomes available for the Sheriff to transport the individual to DSH for admission.
 - Justification: Referrals are sent to DSH without proper documentation to make expedient placements in an appropriate setting and to facilitate continuity of care; time and resources are spent in contacting private medical facilities, scheduling hearings, and making additional court appearances to secure specific court orders to obtain the medical records. Additionally, individuals who are out of the Sheriff's custody and not available to transport to DSH for admission remain on DSH's waitlist for extended periods of time and artificially inflates DSH's waitlist since these individuals are not available for DSH to admit. As of February 12, 2024, of the 419 IST individuals on DSH's waitlist, 72 were out of custody and not available to DSH for admission, many of which DSH has made multiple attempts to coordinate admission with the Sheriff and/or Court. Currently, these individuals continue to remain on DSH's waitlist indefinitely, despite the individual not being available for admission.

Amend Penal Code 1372 to:

- Clarify the statute regarding when competent individuals can remain at DSH for purposes of maintaining competency.
- Establish authority for the court to address the issue of involuntary medications for individuals that remain at DSH for purposes of maintaining competency under 1372(e).
- Extend DSH authority to bill for individuals restored to competency who remain in state hospital treatment beds after 10 days to other DSH funded IST treatment programs.
 - Justification: There is no clear process to advise the courts when an IST individual may no longer need to remain in an inpatient setting or other DSH program, post initial competency finding and recommendation

under PC 1372(e). Further, PC 1372(e) does not address a process for the courts to authorize or extend an involuntary medication order should that intervention be needed for purposes of maintaining competency. Without this clarification, individuals who remain in an inpatient setting or other DSH program after the initial competency finding, may stay for excessively long period in DSH programs when the level of care may no longer be required.

Amend Welfare and Institutions Code (WIC) 4361 to:

- Change the timeline from quarterly to monthly for DSH's contracted diversion programs to report diversion data to DSH.
 - Justification: Currently, DSH receives data from the county diversion programs, 90 days after the end of each quarter. By the time DSH receives the data, it is often more than 6 months old. This places DSH at a significant disadvantage to implement effective program monitoring. Increasing the frequency to monthly increases DSH's ability to monitor programs and helps facilitate DSH's ability to provide timely data reporting regarding ISTs served in these programs.

Amend Vehicle Code 14902 and Add WIC 7296 to:

- Provide authority for DSH to assist discharging patients with obtaining California identification cards. Specifically, to facilitate the process with the agencies holding documentation required to obtain an ID such as a birth certificate or social security number, including, but not limited to, the provision of any necessary notary services, assistance with obtaining necessary forms, and correspondence.
 - Justification: Supports one of the state's most vulnerable populations in transitioning out of inpatient treatment and into the community and would create similar processes to obtain an ID card for DSH patients consistent with the authority that CDCR has for inmates releasing from prison back to the community. This is especially important for inmates paroling directly from state hospitals who would have been able to secure an ID if paroled from CDCR and are currently unable to do so due to DSH's limited authority.

Summary of Arguments in Support:

This trailer bill will increase utilization of DSH beds and access to care, streamline processes, reduce the waitlist for individuals found Incompetent to Stand Trial on felony charges, and support successful transitions from DSH inpatient programs to the community.

Estimate and Title: Incompetent to Stand Trial Solutions ECP