

Diversions/Reentry Workgroup

May 13, 2022



Brenda Grealish
Executive Officer, CCJBH
Office of the Secretary, Kathleen Allison
California Department of Corrections and Rehabilitation (CDCR)



Housekeeping:

**** Workgroup is being recorded ****

- **Use the “raise hand” feature to make a comment**
- *You will be placed in line to comment in the order in which requests are received by the host.*
- **When it is your turn to comment, the meeting host will unmute your line and announce your name.**
- *Members of the public should be prepared to complete their comments within 3 minutes or less if a different time allotment is needed and announced by the Executive Officer.*

Email:

CCJBH@cdcr.ca.gov



Webinar Policies:

PARTICIPATION

We welcome your participation throughout this meeting. Please note that disruptive behavior is not aligned with the purpose of this session and will not be tolerated. Any individuals disrupting the meeting may be removed without warning. In the event of a security incident, this session will end immediately and will not resume. If this occurs, a separate email will be sent to all participants with further instructions.

Q&A

Participant comments in the Q&A do not reflect the views or policies of the presenters, the Council on Criminal Justice and Behavioral Health, the California Department of Corrections and Rehabilitation or its affiliates or contractors. By using this Q&A, you agree to keep comments relevant to the topic of today's event. While a variety of diverse perspectives and opinions is welcome, disruptive comments are not aligned with the purpose of this meeting, and users creating disruption may be removed without warning.



Agenda

Time	Topic
3:00 PM	Welcome & Introductions
3:10 PM	Diversion Technical Assistance Contract Update
3:15 PM	SB 317: Background and Implementation
4:35 PM	Q&A with Councilmember Advisors Public Discussion
4:55 PM	Announcement/Next Steps
5:00 PM	Adjourn



Diversion Technical Assistance Contract Update



Mental Health Diversion Contract

The *Mental Health Diversion: Consultation, Technical Assistance & Policy Recommendations* contract was awarded to the Council of State Governments (CSG) Justice Center and includes:

- Subject matter expert specialty consultation and technical assistance to enhance, sustain and/or expand local capacity to successfully implement mental health diversion.
 - Learning Communities
 - Listening Sessions
 - Topical Workthrough sessions
- A final report that includes recommendations to expand mental health diversion in California, anticipated December 2022.



****Q&A with Councilmember Advisors****

****Public Comment****



SB 317: Background and Implementation



SB 317: Background and Implementation

Panelists:

- **Laura Arnold, JD**, Santa Barbara Public Defender's Office
- **Henry Bratton**, Program Manager, Office of Diversion and Reentry, Los Angeles County
- **Katie Herman**, Senior Policy Analyst, Behavioral Health, Council of State Governments Justice Center
- **Deanne Adams**, Senior Analyst, Criminal Justice Services, Judicial Council of California
- **William Oglesby, Psy.D.**, Deputy Director, Forensic Services, San Bernardino County Department of Behavioral Health



SB 317: Background and Implementation

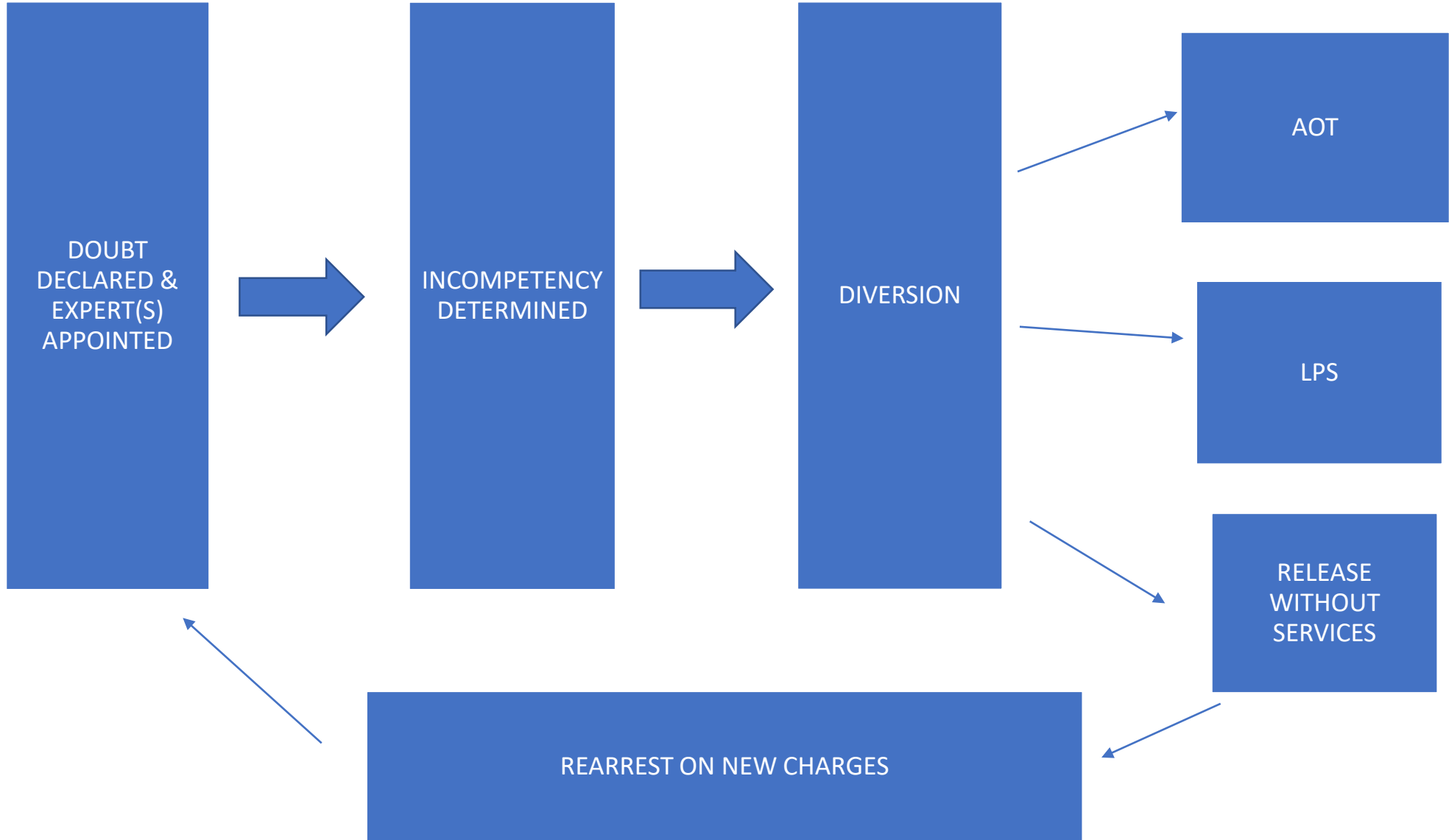
Laura Arnold, JD

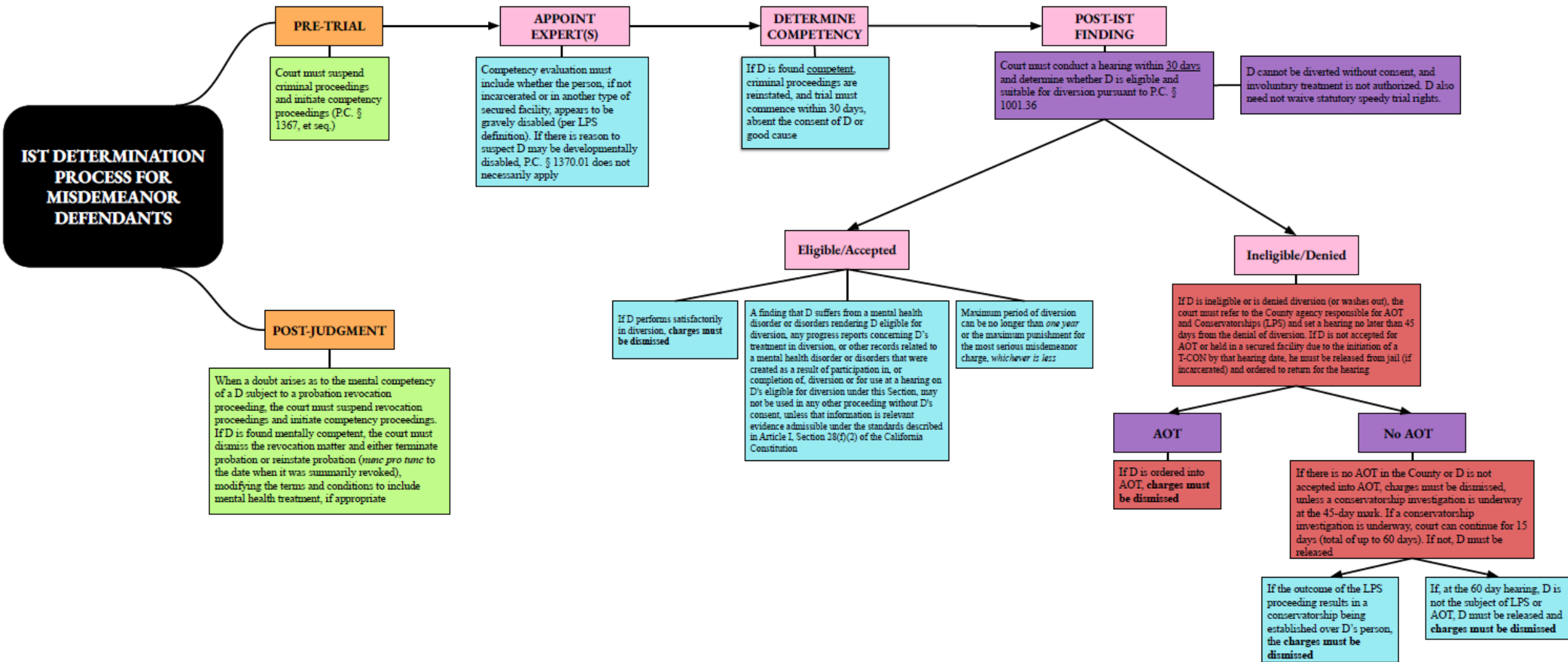
Lead Attorney, Postconviction Unit,
Santa Barbara County Public
Defender's Office



SB 317, eff. 1/1/2022, eliminated commitments for incompetent individuals charged with misdemeanors, requiring diversion, conservatorship, AOT, or dismissal

- Upon finding that D is incompetent to stand trial, the court must conduct a hearing under PC 1001.36 (MH diversion).
- If D is found eligible for diversion, the court must grant diversion.
- If D is found ineligible for diversion, or if D does not succeed on diversion, the court must either,
 - Refer D to Behavioral Health for a possible petition for Assisted Outpatient Treatment (WIC 5346), *if* the county has services available under that section, or
 - Refer for LPS petition, but only if, based on the opinion of a qualified MH expert, D appears to be gravely disabled, or
 - Dismiss the charges and order the defendant released. (If D is on probation, the court must dismiss the violation and return the D to supervision.)





IST DETERMINATION PROCESS FOR MISDEMEANOR DEFENDANTS

PRE-TRIAL

Court must suspend criminal proceedings and initiate competency proceedings (P.C. § 1367, et seq.)

APPOINT EXPERT(S)

Competency evaluation must include whether the person, if not incarcerated or in another type of secured facility, appears to be gravely disabled (per LPS definition). If there is reason to suspect D may be developmentally disabled, P.C. § 1370.01 does not necessarily apply

DETERMINE COMPETENCY

If D is found competent, criminal proceedings are reinstated, and trial must commence within 30 days, absent the consent of D or good cause

POST-IST FINDING

Court must conduct a hearing within 30 days and determine whether D is eligible and suitable for diversion pursuant to P.C. § 1001.36

D cannot be diverted without consent, and involuntary treatment is not authorized. D also need not waive statutory speedy trial rights.

Eligible/Accepted

If D performs satisfactorily in diversion, charges must be dismissed

A finding that D suffers from a mental health disorder or disorders rendering D eligible for diversion, any progress reports concerning D's treatment in diversion, or other records related to a mental health disorder or disorders that were created as a result of participation in, or completion of, diversion or for use at a hearing on D's eligible for diversion under this Section, may not be used in any other proceeding without D's consent, unless that information is relevant evidence admissible under the standards described in Article I, Section 28(f)(2) of the California Constitution

Maximum period of diversion can be no longer than *one year* or the maximum punishment for the most serious misdemeanor charge, *whichever is less*

Ineligible/Denied

If D is ineligible or is denied diversion (or washes out), the court must refer to the County agency responsible for AOT and Conservatorships (LPS) and set a hearing no later than 45 days from the denial of diversion. If D is not accepted for AOT or held in a secured facility due to the initiation of a T-CON by that hearing date, he must be released from jail (if incarcerated) and ordered to return for the hearing

AOT

If D is ordered into AOT, charges must be dismissed

No AOT

If there is no AOT in the County or D is not accepted into AOT, charges must be dismissed, unless a conservatorship investigation is underway at the 45-day mark. If a conservatorship investigation is underway, court can continue for 15 days (total of up to 60 days). If not, D must be released

If the outcome of the LPS proceeding results in a conservatorship being established over D's person, the charges must be dismissed

If, at the 60 day hearing, D is not the subject of LPS or AOT, D must be released and charges must be dismissed

POST-JUDGMENT

When a doubt arises as to the mental competency of a D subject to a probation revocation proceeding, the court must suspend revocation proceedings and initiate competency proceedings. If D is found mentally competent, the court must dismiss the revocation matter and either terminate probation or reinstate probation (*nunc pro tunc* to the date when it was summarily revoked), modifying the terms and conditions to include mental health treatment, if appropriate

SB 317: Background and Implementation

Henry Bratton

Program Manager, Office of
Diversion and Reentry, Los Angeles
County



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Justice Center

THE COUNCIL OF STATE GOVERNMENTS

CCJBH Diversion Workgroup Meeting

Katie Herman, Senior Policy Analyst

May 13, 2022

The Council of State Governments Justice Center

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

CCJBH and DSH Diversion Key Project Activities

1. Run 6 **peer learning communities**
2. Draft and administer **survey** for local stakeholders with implementation roles in diversion including questions on current diversion practices, challenges, and impact of COVID-19
3. Develop **TTA plans** based on survey results and Collaboration Meetings
4. Facilitate **4 quarterly meetings** to collaborate with state officials/state-wide association on policies and TTA relevant for diversion implementation
5. Facilitate **5 Virtual Regional Listening Sessions** (Central Valley, Southern California, Bay Area, Superior, Sacramento) to meet with stakeholders, including diversion participants and families, to identify implementation successes, challenges
6. Facilitate **3 Topical Work-Through Sessions** with stakeholders and SMEs on “tough” topics identified through survey, learning communities, and other collaboration meetings
7. **Document** implementation challenges, emergent policy issues, “lessons learned,” and proposed strategies

Diversion Learning Community Participating Counties

1. Alameda
2. Butte
3. Contra Costa
4. Fresno
5. Humboldt
6. Kern
7. Orange
8. Plumas

9. San Bernardino
10. San Francisco
11. Santa Barbara
12. Santa Cruz
13. Shasta
14. Siskiyou
15. Solano
16. Sonoma

SB 317 Challenges from Diversion Learning Community

- Statutory time frames
- Inability to compel medication compliance
- Treatment buy-in from participants with limited insight
- Lack of locked inpatient transitional facilities
- Overburdened conservatorship system
- Insufficient jail discharge planning and warm handoffs
- Immediate 5150 hospital discharges

SB 317 Recommendations from Diversion Learning Community

- Funding and resources for conservatorship system
- Extended time frames for case dispositions
- Increase opportunities for jail in-reach and warm handoffs to treatment
- Additional training and resources for defense attorneys around motivational interviewing and engagement of psychiatrically unstable clients
- Streamline 5150 process from jail to hospital for inpatient evaluation

Thank You!

Join our distribution list to receive updates and announcements:

<https://csgjusticecenter.org/resources/newsletters/>

For more information, please contact Katie Herman at
kherman@csg.org

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SENATE BILL 317 & THE COURTS

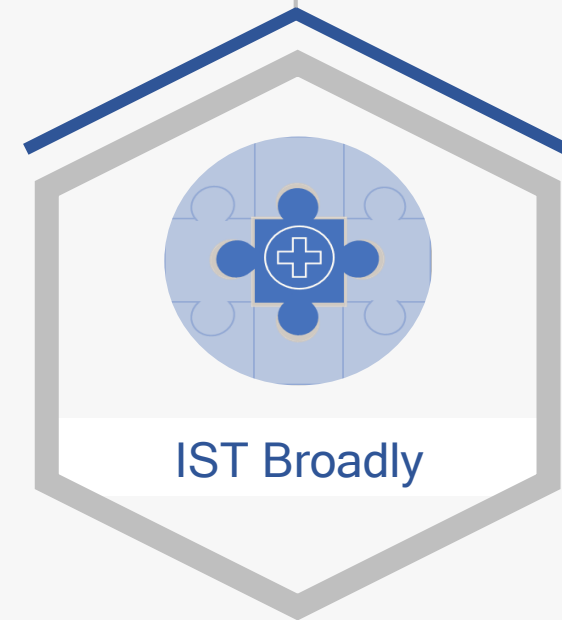
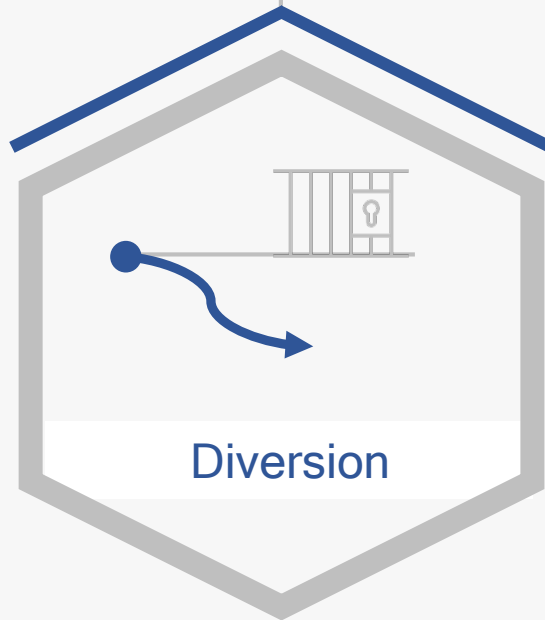
DEANNA ADAMS, ESQ.
CRIMINAL JUSTICE SERVICES



JUDICIAL COUNCIL
OF CALIFORNIA



SENATE BILL 317 CONSIDERATIONS



SENATE BILL 317



This bill would [...] authorize a court, upon finding the defendant incompetent to stand trial, to suspend the proceedings and take certain actions, including granting diversion not to exceed one year or dismissing the charges, as specified.

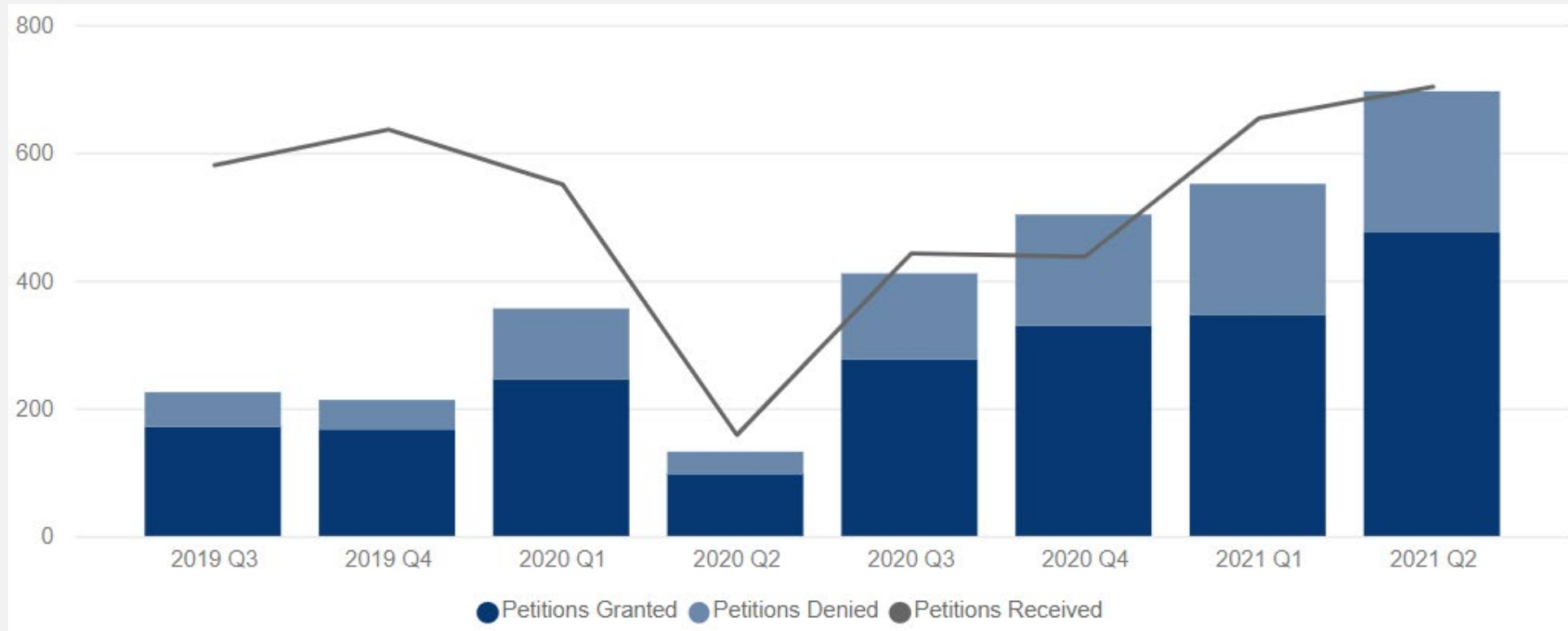


*Excerpt from Legislative Counsel's Digest,
leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB317*

SENATE BILL 317 CONSIDERATIONS

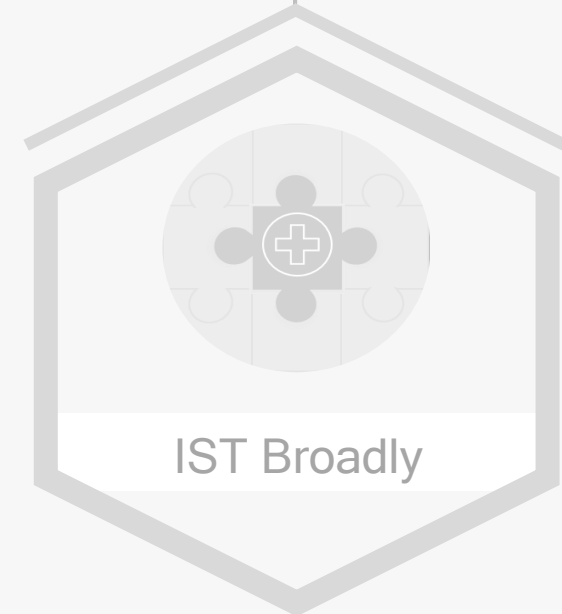
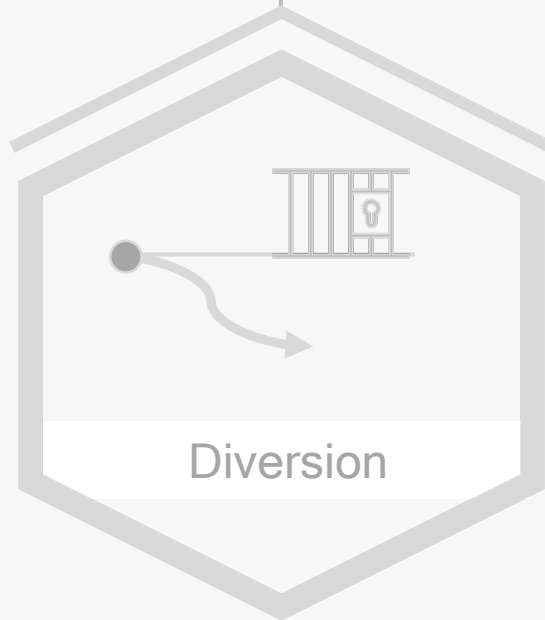


MENTAL HEALTH DIVERSION PETITIONS



Judicial Council Criminal Justice Services Data Dashboard: Pretrial Mental Health Diversion
<https://www.courts.ca.gov/38232.htm#pretrial-mental-health-diversion>

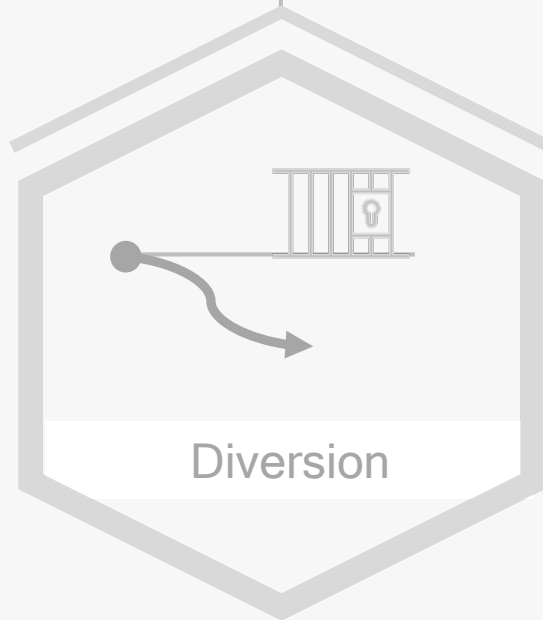
SENATE BILL 317 CONSIDERATIONS



Assisted Outpatient Treatment



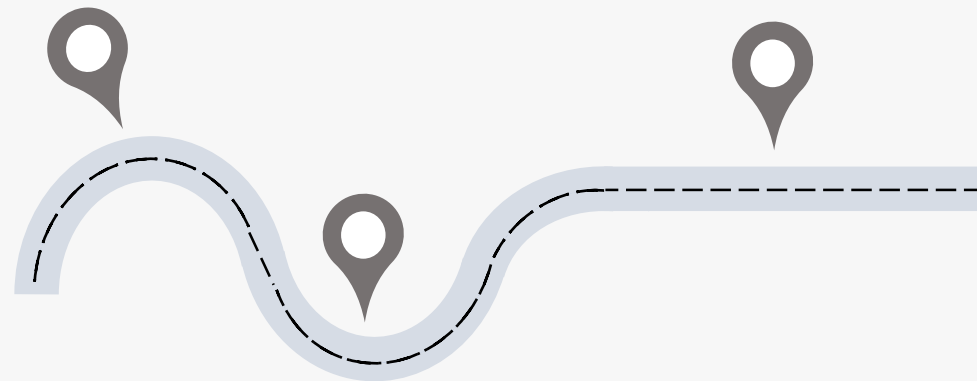
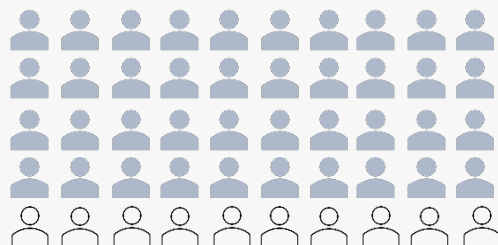
SENATE BILL 317 CONSIDERATIONS



BRIDGE STATEWIDE CONVERSATIONS & IST CONSIDERATIONS

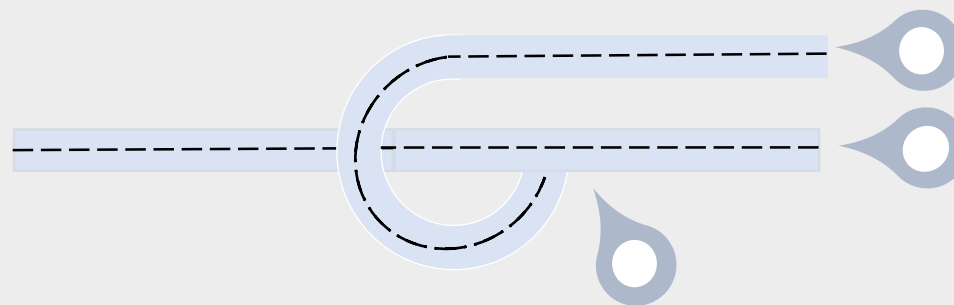
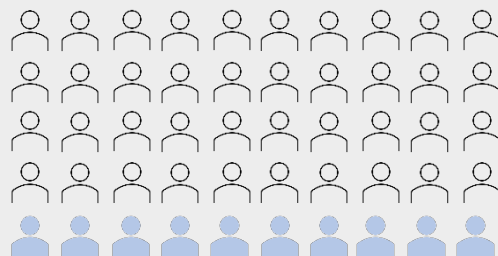
Focused Conversations: Felons IST

- DSH Diversion
- IST Solutions Workgroup

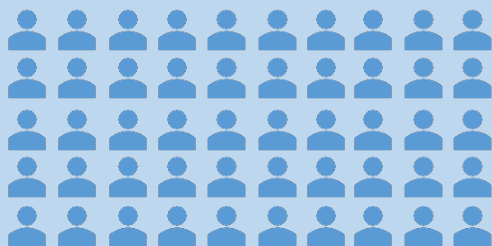


Focused Conversations: Misdemeanor IST

- SB 317



Need Dedicated Conversations Broadly Focused on IST



THANK YOU

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JUDICIAL COUNCIL
OF CALIFORNIA



SB 317: Background and Implementation

William Oglesby, Psy.D.

Deputy Director, Forensic Services,
San Bernardino County Department
of Behavioral Health



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****Q&A with Councilmember Advisors****

****Public Comment****



Upcoming Events

Juvenile Justice Workgroup

Friday, July 15, 2022, 12:45 – 2:45 PM

Board of Parole Hearings Room, 1515 K St. Suite 550, Sacramento, CA 95811

Diversion and Reentry Workgroup

Friday, July 15, 2022, 3:000 – 5:00 PM

Board of Parole Hearings Room, 1515 K St. Suite 550, Sacramento, CA 95811

CCJBH Full Council Meeting

Friday, July 29, 2022, 2:00 - 4:30 PM

8260 Longleaf Dr. Building C-1 Room 101, Elk Grove, CA 95758

Please visit our website at <https://www.cdcr.ca.gov/ccjbh/>

Email us at CCJBH@cdcr.ca.gov

If you would like to be added to CCJBH's listserv, click [HERE](#).

THANK YOU!

