

ASSEMBLY BILL

No. 2262

Introduced by Assembly Member Levine

February 18, 2016

An act to add Chapter 16 (commencing with Section 1425) to Title 10 of Part 2 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 2262, as introduced, Levine. Prisoners: mental health treatment.

Existing law prohibits a person from being tried, adjudged to punishment, or having his or her probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and by which the defendant receives treatment, including, if applicable, antipsychotic medication, with the goal of returning the defendant to competency. Existing law credits time spent by a defendant in a state hospital or other facility as a result of commitment during the process toward the term of any imprisonment for which the defendant is sentenced. Existing law, as added by Proposition 184, adopted November 8, 1994, and amended by Proposition 36, adopted November 6, 2012, commonly known as the Three Strikes Law, prohibits certain recidivist offenders from being committed to any facility other than a state prison.

This bill would authorize, if a defendant has pled guilty or nolo contendere to, or been convicted of, an offense that will result in a sentence to state prison or county jail, the defendant or the prosecutor submit evidence that the defendant suffers from a diagnosable mental condition that was a substantial factor that contributed to the defendant's criminal conduct. The bill would require that the evidence be submitted

after the defendant’s conviction, but before his or her sentencing. The bill would require the court to consider any evidence submitted as described above in conjunction with the defendant’s sentencing, and would authorize the court to order the Department of Corrections and Rehabilitation or county jail authority, as applicable, to place the defendant in a residential mental health treatment facility. This placement would not be available to a defendant who is subject to the Three Strikes Law. The bill would also authorize the court to order the department or jail authority to place the defendant in a mental health program within the state prison or county jail, respectively. The bill would provide that the defendant has the right to counsel for these proceedings.

By imposing additional duties upon county jail authorities, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Mental Health Justice Act.

3 SEC. 2. Chapter 16 (commencing with Section 1425) is added
4 to Title 10 of Part 2 of the Penal Code, to read:

5
6 CHAPTER 16. MENTAL HEALTH TREATMENT

7
8 1425. (a) If a defendant has pled guilty or nolo contendere to,
9 or been convicted of, an offense that will result in a sentence to
10 state prison or county jail, the defendant or the prosecutor may
11 submit evidence that the defendant suffers from a diagnosable
12 mental illness that was a substantial factor that contributed to the
13 defendant’s criminal conduct. The evidence shall be filed after the
14 defendant’s plea or conviction, but before his or her sentencing.

1 (b) If evidence is submitted pursuant to subdivision (a), the
2 court shall consider that evidence in conjunction with the
3 defendant's sentencing.

4 (c) Upon consideration of the evidence submitted pursuant to
5 subdivision (a), notwithstanding any other law, if the court
6 determines that it is in the best interests of public safety, the court
7 may order one or more of the following:

8 (1) (A) That the defendant serve, if the defendant agrees, all or
9 a part of his or her sentence in a residential mental health treatment
10 facility instead of in the state prison or county jail, unless that
11 placement would pose an unreasonable risk of danger to public
12 safety.

13 (B) This paragraph does not apply to a defendant subject to
14 Section 1170.12.

15 (2) The Department of Corrections and Rehabilitation or county
16 jail authority, as applicable, to place the defendant in a mental
17 health program within the state prison or county jail system,
18 respectively, at a level of care determined to be appropriate by the
19 department's mental health staff or county mental health staff,
20 within 30 days, of the defendant's placement in the state prison or
21 county jail.

22 (3) The Department of Corrections and Rehabilitation or the
23 county jail authority, as applicable, regardless of the type of crime
24 committed to prepare a postrelease mental health treatment plan
25 six months prior to the defendant's release to parole or postrelease
26 community supervision. The treatment plan shall specify the
27 manner in which the defendant will receive mental health treatment
28 services following that release, and shall address, if applicable and
29 in the discretion of the court, medication management, housing,
30 and substance abuse treatment.

31 (d) (1) The defendant or prosecutor may, at any time, petition
32 the court for approval to transfer the defendant from a residential
33 mental health treatment facility to a mental health program within
34 the state prison or county jail for the remainder of the defendant's
35 sentence.

36 (2) The defendant, prosecutor, Department of Corrections and
37 Rehabilitation, or county jail authority, as applicable, may, at any
38 time, petition the court for permission to remove the defendant
39 from a mental health program within the state prison or county jail
40 system, respectively.

1 (3) The defendant, prosecutor, Department of Corrections and
2 Rehabilitation, or county jail authority, as applicable, may, at any
3 time, petition the court for dismissal of the requirement that the
4 Department of Corrections and Rehabilitation or county jail
5 authority, respectively, prepare a postrelease mental health
6 treatment plan.

7 (e) The defendant shall have the right to counsel for all
8 proceedings under this section.

9 SEC. 3. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.