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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 4. MENTAL HEALTH [4000 - 4390]** ( *Heading of Division 4 amended by Stats. 1977, Ch. 1252. )*

**PART 3. DEPARTMENTAL PROGRAM INITIATIVES [4340 - 4369.4]** ( *Part 3 added by Stats. 1991, Ch. 89, Sec. 51. )*

**CHAPTER 6.5. Diversion Funding for Individuals with Serious Mental Disorders [4361- 4361.]** ( *Chapter 6.5 added by Stats. 2018, Ch. 34, Sec. 29. )*

**4361.** (a) As used in this section, "department" means the State Department of State Hospitals.

(b) The purpose of this chapter is to, subject to appropriation by the Legislature, promote the diversion of individuals with serious mental disorders as prescribed in Chapter 2.8A (commencing with Section 1001.35) of Title 6 of Part 2 of the Penal Code, and to assist counties in providing diversion for individuals with serious mental illnesses who have been found incompetent to stand trial for a felony charge. In implementing this chapter, the department shall consider local discretion and flexibility in diversion activities that meet the community's needs and provide for the safe and effective treatment of individuals with serious mental disorders across a continuum of care.

(c) (1) Subject to appropriation by the Legislature, the department may solicit proposals from, and may contract with, a county to help fund the development or expansion of pretrial diversion described in Chapter 2.8A (commencing with Section 1001.35) of Title 6 of Part 2 of the Penal Code, for the population described in subdivision (b) and that meets all of the following criteria:

(A) Participants are individuals diagnosed with a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, and schizoaffective disorder, but excluding a primary diagnosis of antisocial personality disorder, borderline personality disorder, and pedophilia, and who are presenting non-substance-induced psychotic symptoms, who have been found incompetent to stand trial pursuant to clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 1370 of the Penal Code.

(B) There is a significant relationship between the individual's serious mental disorder and the charged offense, or between the individual's conditions of homelessness and the charged offense.

(C) The individual does not pose an unreasonable risk of danger to public safety, as defined in Section 1170.18 of the Penal Code, if treated in the community.

(2) A county submitting a proposal for funding under this chapter shall designate a lead entity to apply for the funds. This lead entity shall show in its proposal that it has support from other county entities or other relevant entities, including courts, that are necessary to provide successful diversion of individuals under the contract.

(d) When evaluating proposals from the county, the department shall prioritize proposals that demonstrate all of the following:

(1) Provision of clinically appropriate or evidence-based mental health treatment and wraparound services across a continuum of care, as appropriate, to meet the individual needs of the diversion participant. For purposes of this section, "wraparound services" means services provided in addition to the mental health treatment necessary to meet the individual's needs for successfully managing the individual's mental health symptoms and to successfully live in the community. Wraparound services provided by the diversion program shall include appropriate housing, intensive case management, and substance use disorder treatment, and may include, without limitation, forensic assertive community treatment teams, crisis residential services, criminal justice coordination, peer support, and vocational support.

(2) Collaboration between community stakeholders and other partner government agencies in the diversion of individuals with serious mental disorders.

(3) Connection of individuals to services in the community after they have completed diversion as provided in this chapter.

(e) The department may also provide funding in the contract with the county, subject to appropriation by the Legislature, to cover the cost of providing postbooking assessment of defendants who are likely to be found incompetent to stand trial on felony charges to determine whether the defendant would benefit from diversion as included in the contract.

(f) The department may also provide funding in the contract with the county, subject to appropriation by the Legislature, to cover the cost of in-jail treatment prior to the placement in the community for up to an average of 15 days for defendants who have been approved by the court for diversion as included in the contract.

(g) A county contracted pursuant to this chapter shall report data and outcomes to the department, within 30 days after the end of each month, regarding those individuals targeted by the contract and in the program. This subdivision does not preclude the department from specifying reporting formats or from modifying, reducing, or adding data elements or outcome measures from a contracting county, as needed to provide for reporting of effective data and outcome measures. Notwithstanding any other law, but only to the extent not prohibited by federal law, the county shall provide specific patient information to the department for reporting purposes. The patient information is confidential and is not open to public inspection. A contracting county shall, at a minimum, report all of the following:

(1) The number of individuals that the court ordered to postbooking diversion and the length of time for which the defendant has been ordered to diversion.

(2) The number of individuals participating in diversion.

(3) The name, social security number, criminal identification and information (CII) number, date of birth, and demographics of each individual participating in the program. This information is confidential and is not open to public inspection.

(4) The length of time in diversion for each participating individual. This information is confidential and is not open to public inspection.

(5) The types of services and supports provided to each individual participating in diversion. This information is confidential and is not open to public inspection.

(6) The number of days each individual was in jail prior to placement in diversion. This information is confidential and is not open to public inspection.

(7) The number of days that each individual spent in each level of care facility. This information is confidential and is not open to public inspection.

(8) The diagnoses of each individual participating in diversion. This information is confidential and is not open to public inspection.

(9) The nature and felony or misdemeanor classification of the charges for each individual participating in diversion. This information is confidential and is not open to public inspection.

(10) The number of individuals who completed diversion.

(11) The name, social security number, CII number, and birth date of each individual who did not complete diversion and the reasons for not completing. This information is confidential and is not open to public inspection.

(h) Contracts awarded pursuant to this chapter are exempt from the requirements contained in the Public Contract Code and the State Administrative Manual and are not subject to approval by the Department of General Services.

(i) The funds shall not be used to supplant existing services or services reimbursable from an available source but rather to expand upon them or support new services for which existing reimbursement may be limited.

(j) (1) Beginning July 1, 2021, subject to appropriation by the Legislature, the department may amend contracts with a county to fund the expansion of an existing department-funded pretrial diversion as described in Chapter 2.8A (commencing with Section 1001.35) of Title 6 of Part 2 of the Penal Code, for the population described in subdivision (b) and that meets both of the following criteria:

(A) All participants identified for potential diversion are found incompetent to stand trial on a felony charge.

(B) Participants diverted through a program expansion suffer from a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, excluding antisocial personality disorder, borderline personality disorder, and pedophilia.

(2) Counties expanding their programs under this section will not be required to meet any additional match funding requirements.

(k) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the state hospitals and the department may implement, interpret, or make specific this section by means of a departmental letter or other similar instruction, as necessary.

(l) The department shall have access to the arrest records and state summary of criminal history of defendants who are participating or have participated in the diversion program. The information may be used solely for the purpose of looking at the recidivism rate for those patients.

(m) If the defendant is committed directly to a county program in lieu of commitment to the department, counties shall provide the minute order from the court documenting the incompetent to stand trial finding on a felony charge and the original alienist evaluation associated with that finding.

(n) For department-funded diversion programs funded through appropriations made by the Budget Act of 2018 or new county programs funded through the Budget Act of 2021, participants in those county programs may include individuals diagnosed with schizophrenia, schizoaffective disorder, or bipolar disorder, who are likely to be found incompetent to stand trial for felony charges, pursuant to Section 1368 of the Penal Code, or who have been found incompetent to stand trial pursuant to clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 1370 of the Penal Code, until new funds are dispersed to the county. Counties shall continue to comply with all terms of the contract signed with the department, including matching fund and data reporting requirements.

*(Amended by Stats. 2025, Ch. 10, Sec. 23. (AB 134) Effective June 27, 2025.)*