



# Board Agenda Item 48

DATE: June 24, 2025

TO: Board of Supervisors

SUBMITTED BY: Susan L. Holt, Director, Department of Behavioral Health

SUBJECT: Department of State Hospitals Permanent Diversion Funding Agreement

## RECOMMENDED ACTION(S):

1. **Approve and authorize the Chairman to execute Agreement 24-79038-000 with the California Department of State Hospitals to establish Diversion Program funding for five years from July 1, 2025, through June 30, 2030, with a compensation maximum of \$27,531,750; and**
2. **Approve and authorize the Director of the Department of Behavioral Health, or designee, to be the signatory on behalf of the Board of Supervisors on associated Diversion Program funding documents, expenditure forms and reports.**

There is no additional Net County Cost associated with the recommended actions. Approval will allow Fresno County to access California Department of State Hospitals (DSH) Diversion funding and continue the Diversion program, which provides behavioral health services to justice-involved individuals who have significant mental health challenges and who would otherwise remain incarcerated. Approval of the second recommended action will allow the Department of Behavioral Health (DBH) Director, as lead entity of DSH Diversion funding in Fresno County, to sign funding documents, expenditure forms, and reports. This item is countywide.

## ALTERNATIVE ACTION(S):

There is no viable alternative action. If the Board does not approve the recommended actions, Fresno County would lose access to DSH Diversion funding and not be able to provide needed community-based behavioral health services to justice-involved individuals who have significant mental health challenges and who would otherwise remain incarcerated. Additionally, the DBH will have to return to your Board for signature on all necessary funding reports and forms.

## FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The non-competitive Diversion funding made available by DSH in the amount of \$27,531,750 is used to fund Felony Incompetent to Stand Trial (FIST) Court training and implementation costs by Fresno County Superior Courts, community supervision and FIST support by Probation, and community-based treatment program services. Sufficient appropriations and estimated revenues will be included in the Department's Org 5630 FY 2025-26 Recommended Budget.

## DISCUSSION:

In 2018, California Assembly Bill (AB) 1810 and Senate Bill 215 amended Penal Code (PC) Sections 1001.35 and 1001.36 to create a pathway for courts to authorize pre-trial diversion for individuals with

serious mental disorders who committed certain felony or misdemeanor crimes. AB 1810 established Welfare and Institutions Code (WIC) 4361 to allow DSH the funding opportunity to contract with counties to provide services and support to a specific target population of individuals who have been or have the potential to be deemed as incompetent to stand trial (IST) on their felony charges.

Effective January 1, 2025, amendments to California Penal Code (PC) Section 1370 reflect a statewide shift toward expanding community-based alternatives for individuals deemed incompetent to stand trial (IST). These changes align with California's broader commitment to reducing reliance on state hospital placements by enhancing diversion pathways and increasing flexibility in treatment options for justice-involved individuals with serious mental illness. The revisions to PC 1370 establish new timelines and responsibilities for courts, including requirements to consider eligibility for diversion, assisted outpatient treatment, conservatorship, or other community-based services prior to issuing confinement orders for IST defendants. In addition, courts must now hold hearings to determine diversion eligibility within 30 days of the incompetency finding, ensuring timely access to appropriate services.

The Board approved Agreement No. 20-340 with DSH on September 22, 2020, when DSH released a one-time, non-competitive diversion funding to Fresno County to develop a pre-trial jail diversion program with intent to reduce at minimum 42 felony IST referrals to State Hospitals by connecting them to long-term community-based treatment and supportive services. In collaboration with criminal justice partners, DBH has utilized the funding to support training and implementation of the centralized Mental Health Diversion Court (MHDC), a community supervision component through Probation to MHDC, and contracted services for community-based forensic behavioral health treatment services. MHDC was implemented by Superior Courts on June 18, 2020, to effectively and efficiently streamline diversion applications and hearings. Although probation is not required for diversion, justice partners felt a community supervision component through one (1) full time equivalent (FTE) Probation Officer was necessary for effective diversion by supporting the intersection between the criminal justice and community treatment systems.

As of March 2023, the pre-trial jail diversion program has been able to divert 55 individuals from incarceration through MHDC. Of the 21 DSH-funding eligible individuals participating in the community-based treatment program operated by Turning Point of Central California, Inc. (Turning Point Diversion Program), 15 were released from custody into treatment. There have been 33 successful graduations from MHDC, with five from the Turning Point Diversion Program.

The previous diversion program funded by DSH was implemented as a pilot initiative. The recommended action seeks to transition this pilot into a permanent, ongoing program. As part of this transition, DSH has updated both the eligibility criteria and the data reporting requirements for continued funding. DSH does not require a detailed program plan or budget submission prior to the establishment of this agreement, providing greater flexibility for DBH to adapt program elements in response to evolving community and system needs.

The Agreement varies from standard County template as it was drafted by DSH. The agreement is utilized by DSH to execute Funding Agreements with different Counties and is consistent statewide. The agreement includes one-way indemnification language indemnifying DSH due to their status as the provider of funds and as they are not in any manner associated with the actual provision of services. The County is agreeing through the execution of this agreement to indemnify the State for claims involving HIPAA breaches (Page 36 of the PDF, Section 3.A.xiii of Exhibit E), for acts or omissions of subcontractors (Page 22 of the PDF, Section 1.B. of Exhibit D), for failure to pay employment benefits (Page 29 of the PDF, Section 23 of Exhibit D) and generally for claims relating to this agreement (Page 27 of the PDF, Section 17.A. of Exhibit D). The Department believes that the benefit of this funding agreement as written outweighs any potential risks and recommends approval of the agreement. The Department intends to ensure that, to the extent possible, risk is fully transferred in the resulting agreement to the future contractor providing the MH/SUD services through robust indemnity and insurance contractual language.

- OTHER REVIEWING AGENCIES:

The Behavioral Health Board was notified of the recommended agreement at its April 2025 meeting.

REFERENCE MATERIAL:

BAI #40, June 18, 2024

BAI #33, May 23, 2023

BAI #29, January 24, 2023

BAI #44, June 21, 2022

BAI #26.1, September 22, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with DSH

CAO ANALYST:

Ronald W. Alexander, Jr.