
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 154 **Hearing Date:** July 11, 2017
Author: Levine
Version: May 30, 2017
Urgency: No **Fiscal:** No
Consultant: SC

Subject: *Prisoners: Mental Health Treatment*

HISTORY

Source: Author

Prior Legislation: AB 2263 (Levine), held in Assembly Appropriations, 2016
AB 1006 (Levine), held in Assembly Appropriations, 2015
AB 170 (Bentley), Ch. 552, Stats. 1991

Support: California Catholic Conference; National Association of Social Workers;
Steinberg Institute

Opposition: California Public Defenders Association

Assembly Floor Vote: 76 - 0

ANALYSIS REFLECTS AUTHOR'S AMENDMENTS TO BE OFFERED IN COMMITTEE

PURPOSE

The purpose of this bill is to require the sentencing court, after making specified findings, to provide a recommendation to the California Department of Corrections and Rehabilitation (CDCR) to conduct a mental health evaluation on a defendant sentenced to state prison.

Existing law states that upon conviction of any felony in which the defendant is sentenced to state prison, and the court makes any of the findings listed below, a court shall, in addition to any other terms of imprisonment, fine, and conditions, recommend in writing that the defendant participate in a counseling or education program having a substance abuse component while imprisoned:

- That the defendant at the time of the commission of the offense was under the influence of any alcoholic beverages;
- That the defendant at the time of the commission of the offense was under the influence of any alcoholic beverages;
- That the defendant at the time of the commission of the offense was under the influence of any alcoholic beverages; or,

- That the offense or offenses for which the defendant was convicted are drug related.

(Pen. Code, § 1203.096.)

This bill provides that upon a conviction of any felony in which the defendant is sentenced to state prison and in which the court makes any of the following findings, the court shall, in addition to any other terms of imprisonment, fine, and conditions, recommend in writing that the defendant receive a mental health evaluation:

- That the defendant at the time of the commission of the offense was suffering from a serious mental illness; or,
- The defendant has a demonstrated history of mental illness.

COMMENTS

1. Need for This Bill

According to the author:

It is estimated that 45% of the state's prison population is living with a mental illness. In the last 15 years the number of people with mental health issues in prison has almost doubled. The Los Angeles County Jail has been called "the largest mental health provider in the country."

Unless the county has a mental health court, judges often play no role in looking at the mental health of the defendant. Under current law, judges are required to make a recommendation that an individual seek substance abuse treatment if substance abuse played a role in the commission of the crime. This bill requires judges to make a similar recommendation if the defendant's mental health played a role in the commission of the crime.

2. Growing Population of Mentally Ill Inmates

The Department of Corrections and Rehabilitation's (CDCR) Council on Mentally Ill Offenders (COMIO) regards the growing number of inmates suffering from mental health issues as a pressing concern.

A 2015 Stanford Law School report found that the number of mentally ill people in California's state prisons have almost doubled in the past 15 years. (Mills, Romano and Steinberg, *When did prisons become acceptable mental healthcare facilities?* Stanford Law School Three Strikes Project (Feb. 12, 2015).) The report defines "mentally ill prisoner" as an inmate suffering from a serious mental illness, as diagnosed by the prison Mental Health Delivery System.

According to the report, approximately 45 percent of prison inmates had been treated for severe mental illness the previous year. The report also found that once a mentally ill offender is in the criminal system, they tend to be subjected to harsher sentencing than others for the same crimes: "despite rules of court in California designed to mitigate punishments for mentally ill offenders, the average sentence imposed on defendants suffering from mental illness is longer than the

average sentence imposed on defendants who do not have mental health diagnosis but who committed the same crime. Unfortunately this is true across every category of crime in California. For example, the average sentence for burglary imposed on mentally ill defendants is 30 percent longer than the average sentence for non-mentally ill defendants convicted of the same crime.” Additionally, “[w]hen it comes time to be considered for release, once again the mentally ill fare miserably. For example, the number of mentally ill prisoners denied relief under new resentencing laws enacted under Proposition 36 is three times greater than the number of non-mentally-ill prisoners who have been denied relief.” (*Id.* at 2.)

Once they are released from prison, the report found that mentally ill offenders are not provided with any treatment or services causing them to cycle back through the criminal justice system. “We provide virtually no effective mental health facilities and programs to help released prisoners who are in desperate need of mental health treatment. This service deficit naturally results in higher recidivism rates and an ongoing sense of social isolation and abandonment. And the cycle then begins again with new arrests, new prosecutions, new lengthy sentences, new impediments to release, and eventual release into a system that provides nothing but an inevitable, tragic trajectory back into the criminal justice system.” (*Id.* at 3.)

The report made three recommendations: (1) reform the way we sentence the mentally ill; (2) provide meaningful treatment in prison; and continue meaningful treatment after prison. (*Id.* at 3-4.)

3. Argument in Support

According to the Steinberg Institute:

. . . . We know that mental health conditions worsen behind bars, and that without treatment the rate of repeat offenses is much greater. On the flip side of this, mental health court participants have significantly lower recidivism rates, often reintegrating into their community in a productive way and have shown to save \$7 in costs for every \$1 spent. We believe AB 154 can help to mitigate the state’s current struggle to treat offenders with a mental health diagnosis in prison and county jails, especially as people with mental illness are far less likely to commit a crime, violate prison rules, or recidivate if they are receiving high quality treatment.

4. Argument in Opposition

According to the California Public Defenders Association:

If [the bill] were amended so that the findings could not later be used to indefinitely institutionalize the person the individual after they completed their jail or prison sentence, the legislation would be less objectionable.