Roughly a third of inmates in California’s jails suffer from serious mental illness. Too often, untreated mental illness was the reason these individuals became involved with law enforcement. SB 8 provides trial courts the discretion to order mental health treatment for a person who commits a minor offense, avoiding the unnecessary costs of trial and incarceration.

BACKGROUND

One reason for the constant jailing of mentally ill Californians is that under current law, trial courts have no ability to rehabilitate mentally ill Californians charged with even minor criminal offenses, without first convicting them, thereby damaging their prospects for future employment and housing.

For example, even where an offense is clearly a product of mental illness, a court cannot order mental health treatment, relevant counselling, or adherence to a medication regime unless the person suffering from mental illness is first convicted, and then placed on probation or sent to jail at county expense.

By reserving court-ordered services for the mentally ill until after a conviction, current law leads to higher recidivism rates when mentally ill defendants are denied the services they need to stay out of trouble, while simultaneously given the additional burden of a criminal record.

Such an approach is not only grossly unfair to people whose offenses are the product of mental illness, it is also impractical and costly. For example, while community based treatment for a mentally ill defendant costs roughly $20,000 per year (and greatly reduces recidivism), jailing that same defendant (with a greater risk of recidivism) costs the community more than $50,000 a year.

The predictable results of California’s current reliance on this outdated method are higher costs for taxpayers, who are forced to pay for the continuous warehousing of the mentally ill, when early, court-assisted interventions are far more likely to lead to longer, cheaper, more stable solutions for the community and for the person suffering from mental illness.

SB 8 builds on existing California law that provides diversion options for veterans who suffer from PTSD or other mental health conditions. These programs result in extremely low recidivism rates among participants and significant cost savings to counties.

SB 8 grants trial courts the discretion to offer a diversionary sentence to defendants who suffer from mental illness when charged with low level offenses, after a showing that mental illness played a significant role in the commission of the underlying offense, and that the defendant would benefit from mental health treatment.

Diversion will not be an automatic response. SB 8 provides a tool for trial courts to use in appropriate cases when diversion is the best option and treatment resources are available. Before diversion can even be considered by the court, the defense must present reliable evidence regarding the underlying mental health condition, its connection to the charged offense, and the likelihood that the defendant will benefit from treatment in an appropriate program.

SB 8 will save California money by avoiding trial and incarceration costs in situations where treatment is more appropriate. A diversionary sentence is designed to address the underlying cause of the offense- mental illness. When defendants participate in treatment and rehabilitation, they are less likely to re-offend.

Californians who complete diversionary sentences will be more likely to access housing, find employment, and contribute to their communities.

STATUS/VOTES

Introduced December 5, 2016

SUPPORT

California Public Defenders Association (Sponsor)

FOR MORE INFORMATION

Staff Contact: Carrie Martin Holmes
Carrie.Holmes@sen.ca.gov (916) 651-4015