



Sacramento County Felony Incompetence to Stand Trial (IST): Process Update 2025

System Changes 2015-2025

Mental Health and IST Workgroup
September 2025

Background: Major Changes

- 2015 [lawsuit filed against the Dept. of State Hospitals \(DSH\)](#) resulted in March 2019 ruling, upheld in 2021, requiring Incompetent to Stand Trial (IST) clients to be admitted to services within 28 days of receiving criminal court commitment (waitlist at about 300 in 2015 to over 1,700 in 2021)
- In 2018, [AB 1810 and SB 215](#) created mental health diversion for individuals with serious mental health disorders (PC 1001.35-1001.36) and DSH funded county pilot programs (WIC 4361 DSH diversion eligibility criteria)
- July 27, 2021, per [AB 133](#), only defendants with felony charges found IST may be committed to DSH
- November 2021, IST Solutions Workgroup released a [report](#) with recommendations on actionable solutions to address the increasing number of individuals with serious mental illness who become justice-involved and deemed IST on felony charges
- 2022 [report](#) from CA Committee on Revision of the Penal Code recommended modernization of the Competency to Stand Trial System
- FY 2022-23, per [SB 184](#) (Ch 47, Statutes of 2022), DSH to impose penalty fines to counties exceeding their [IST Growth Cap](#)
- January 2023, per [SB 1223](#), eligibility criteria for Mental Health Diversion (MHD) significantly expanded
- 2018 - 2025, DSH programs/services expanded to reduce the felony IST waitlist and commitments from counties to ensure compliance with law (services begin within 28 days of DSH commitment from county criminal court)
- January 2025, [SB 43](#) expanded definition of grave disability goes into effect in Sacramento County
- January 2025, per [SB 1323](#), IST process changes go into effect, adding the presumption of competency, new interest of justice standard, and other changes (PC 1001.36-MHD; PC 1368, 1369, 1370, & 1370.1-IST Determination & Commit Process; WIC 4361-DSH Funding Felony IST Diversion)

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2025 Felony IST Process Changes

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January 2025 Changes Under SB 1323:

- 1: Competency Evaluations
2. Burden of Proof (Presumption of Competency Applied)
3. Interest of Justice Standard (IOJ) for Diversion and Treatment Options
4. Expanded Eligibility for MHD
5. Firearm Restrictions
6. New Procedures for Medication Decisions
7. Options for those who are not restored

In Jail

In Treatment

In Jail

Term Definitions

- Conditional Release Program (CONREP) Report on Placement for Restoration provides an evaluation on whether the defendant—who has been found Incompetent to Stand Trial (IST)—can be safely and effectively treated in a community-based outpatient setting rather than being committed to a state hospital.
- Disposition (noun) refers to the outcome or resolution of a legal case (describes what happened: conviction, dismissal, settlement, etc.). It marks the point at which the court has completed its proceedings for that matter and officially closes the case. Disposed (verb) indicates that a case has been resolved or concluded.
- A finding of Incompetent to Stand Trial (IST) means a defendant is unable to participate in legal proceedings because they do not understand the nature and purpose of the proceedings and cannot assist in their own defense in a rational manner, due to mental health or developmental delay disability.
- Starting January 2025, courts are required to assess whether restoring a defendant to competency is in the Interest of Justice (IOJ) before proceeding with restoration efforts. The IOJ principle empowers judges to prioritize treatment and care over criminal adjudication when appropriate, especially for defendants with serious mental illnesses who may not benefit from traditional competency restoration, allowing dismissal charges, even when there's enough evidence to proceed, modifying sentences or rulings to avoid unjust outcomes, and protecting the integrity of the court, especially when procedural issues or systemic failures arise. This is not a declaration of innocence. Instead, it's a recognition that continuing prosecution or enforcing a particular legal outcome would be fundamentally unfair under the circumstances.
- Two different conservatorships under the Lanterman-Petris-Short (LPS) Act have different definitions of grave disability (Welfare & Institutions Code (WIC) section 5008(h)(1)): Murphy conservatorships require pending felony charges involving death, great bodily harm or a serious threat to the physical wellbeing of others, a finding of probable cause has been found, a finding of IST, and currently represents a substantial danger of physical harm to others by reason of mental disease, defect or disorder, while LPS conservatorships require unable to provide for food, clothing, shelter, personal safety, or necessary medical care due to a mental health disorder and/or severe substance use disorder.

DSH Programs Available for Criminal Court Commitments

- **State Hospital Restoration Treatment** – Five hospitals throughout the state provide intensive inpatient restoration services
- **Jail-Based Competency Treatment (JBCT)** – Local inpatient restoration at the Rio Cosumnes Correctional Center (RCCC), only serves Sacramento County Felony ISTs
- **Community Inpatient Facilities (CIF)** – Regional locations include one in Sacramento. Provides bridge for stabilizing IST patients on psychotropic medications before discharging to a lower level of care in DSH's treatment continuum or restoring to competency. CIF may also be used when an IST patient in a DSH Diversion program needs to receive a higher level of care for a short period of time to maintain placement in a community program.
- **Early Access and Stabilization Services (EASS)** – Enrolled in jail upon DSH commitment, provides treatment with medication pending DSH/JBCT placement
- **Community Based Restoration (CBR)** – NO DSH CBR PROVIDED BY SACRAMENTO COUNTY
- **Conditional Release Programs (CONREPs)** throughout the state provide mental health treatment and supervision in the community for judicially committed persons. Most patients start after lengthy stay in a state hospital, psychiatric symptoms have stabilized, are no longer considered to be a danger, and the state hospital medical director recommends eligible inpatient to the court for outpatient treatment under CONREP.

2025 Felony IST Process: Doubt to Interest of Justice (IOJ) Determination

01

Felony Defendant has Competency Doubt Raised

- A. Court identifies doubt** regarding defendant's competency, whether raised by Court or Defense
- B. Court orders evaluation** by one or two licensed psychologists/ psychiatrists and **suspends criminal court proceedings**

02

Competency Evaluation Report Submitted to the Court

- A. Report(s) submitted to the Court** by licensed psychologist/ psychiatrist
- B. Counsel reviews report(s) and determines whether they will submit or object to report(s) findings**
- C. Court will either accept both parties submitting on report(s) or set a contested hearing**

**Report must include mental health diagnosis, likelihood of regaining competence, and MH Diversion eligibility, if defense requests*

03

Competency Determination

- A. Court Finds Defendant Competent** → Criminal process resumes
- B. Court Finds Defendant Incompetent** → Criminal proceedings suspended, Court orders a CONREP Report on Placement (Step 04)
- C. Trial on competency conducted if report(s) objected to and hearing requested;** Hearing conducted by jury trial unless right is waived. Trial result of competent → criminal process resumes, if incompetent → Step 04

04

Interest of Justice Determination

Court evaluates if restoration is in the interest of justice (IOJ) based on offense, harm to victim, MH history, public safety, etc. and prosecution/defense info provided

- A. Restoration Not in IOJ** → MH Diversion eligibility determined by hearing within 30 days of IST finding (Step 05-A). If not eligible for MH Diversion, Grave Disability/AOT/CARE report ordered (Step 07-B)
- B. Restoration Is in IOJ** → CONREP Report on Placement for Restoration informs Court decision if restoration will be in community or locked setting (PC 1370(A)(ii)) (Step 05-B)

**If PC 1001.36(d) violent felony, must get classic DSH restoration services*

2025 Felony IST Process: Pathway Options After IOJ Determination

05 - A

Mental Health Diversion
granted for up to 2 years

A. Successful Completion

→ Charges dismissed.

B. Failure to Complete →

Return to court for further proceedings (Court Hearing to Determine Option: Modify Treatment/ LPS Referral/Reinstate Competency Proceedings)

**See PC 1370, PC 1001.36(g)*

05 - B

Competency Restoration

Court considers CONREP Report and orders placement in

appropriate treatment setting: State Hospital, Secure treatment facility or Community-based outpatient program

**Regular evaluations to assess competency restoration*

06

Outcome

A. Competency Restored:

Court resumes criminal proceedings (Step 07-A)

B. Not Restored within 2 Years:

Court determines appropriate legal alternative (Step 07-B)

**DSH may refer unrestored clients to CARE Court*

07

Final Disposition

A. Criminal case disposed

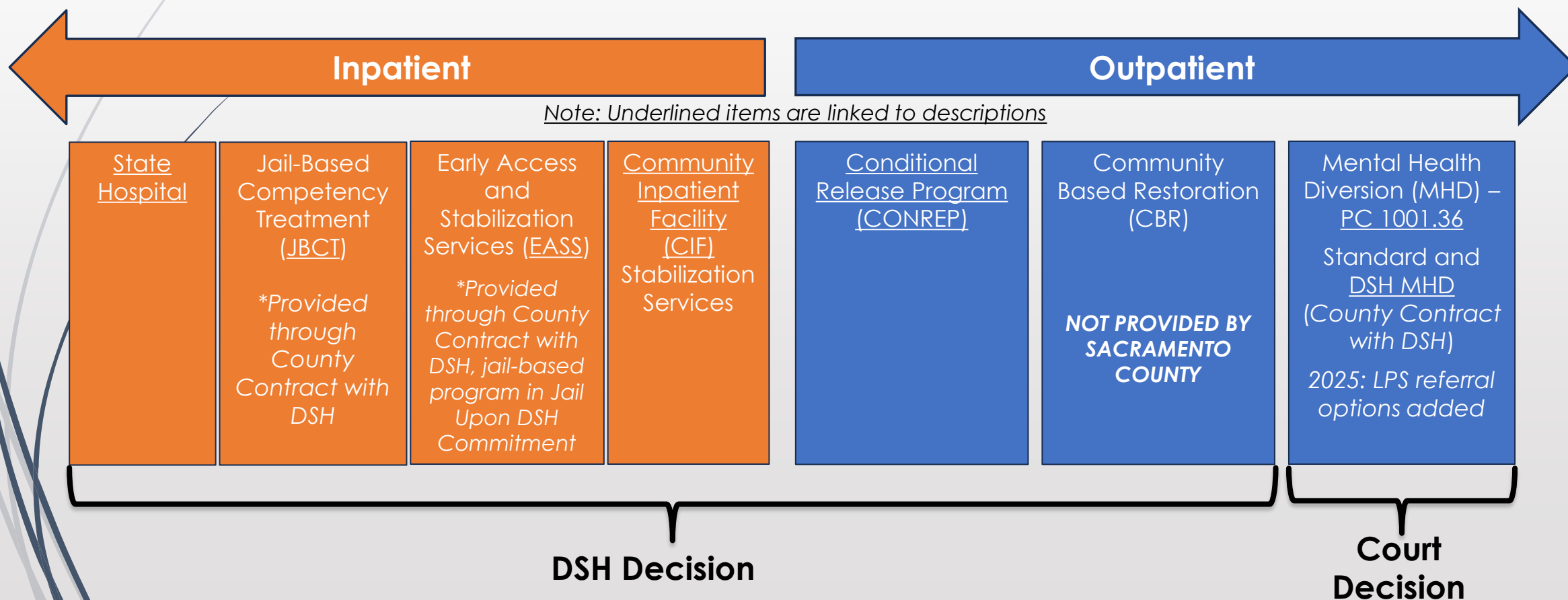
B. Court determines appropriate option for

defendant with no likelihood of restoration:

- Dismissal of charges
- Referral to Public Guardian for Murphy conservatorship if WIC 5008(h)(1)(B) criteria met
- Referral to Treatment Center under PC 4011.6 for WIC 5150 evaluation to initiate LPS process

Felony IST Treatment Continuum

An individual may be shifted from one treatment option to another based on need or revoked from outpatient treatment based on progress



Court Decides What Pathway is Appropriate for Felony IST Defendants Who Cannot be Restored

(DSH reports to court there is no likelihood of restoration)

Court Decision for defendant with no likelihood of restoration:

- **Dismissal of charges → release from jail**
- **Referral to Public Guardian for Murphy conservatorship**
- **Referral to Treatment Center under PC 4011.6 for WIC 5150 evaluation to initiate LPS process**
 - **If LPS or Murphy Conservatorship Granted, Public Guardian coordinates with [Behavioral Health](#) Intensive Placement Team (County Dept. of Health Services) for placement**

Note: Referral to [CARE Court](#) program can be made by DSH

Questions?

- ▶ If you have any questions about the Felony Incompetent to Stand Trial (IST) Process or any other content in this presentation, please contact Catherine York at yorkc@saccounty.gov.