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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 1788                      **Hearing Date:** June 4, 2024  
**Author:** Quirk-Silva  
**Version:** April 24, 2024  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Mental health multidisciplinary personnel team*

## HISTORY

**Source:** Orange County Sheriff's Department

**Prior Legislation:** SB 1342 (Bates), Ch. 621, Stats. 2022  
SB 1054 (Ochoa-Bogh), Ch. 506, Stats. 2022  
AB 728 (Santiago), Ch. 337, Stats. 2019  
AB 998 (Grayson), Ch. 802, Stats. 2018  
AB 210 (Santiago), Ch. 514, Stats. 2017

**Support:** Arcadia Police Officers' Association; Burbank Police Officers' Association; California Academy of Child and Adolescent Psychiatry; California Faculty Association; California Reserve Peace Officers Association; California State Association of Psychiatrists; California State Sheriffs' Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Deputy Sheriffs' Association of Monterey County; Fullerton Police Officers' Association; Murrieta Police Officers' Association; Newport Beach Police Association; Novato Police Officers Association; Palos Verdes Police Officers Association; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriffs' Association; San Bernardino County Sheriff's Department; Santa Ana Police Officers Association; Upland Police Officers Association

**Opposition:** Oakland Privacy

**Assembly Floor Vote:** 65 - 0

## PURPOSE

*The purpose of this bill is to authorize counties to establish a mental health multidisciplinary personnel team to serve justice-involved individuals with mental illness while incarcerated in county jail and upon release.*

*Existing law* authorizes a county to establish a homeless adult and family multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within that county and to allow provider agencies and members of the personnel team to share confidential information for the

purpose of coordinating housing and supportive services to ensure continuity of care. (Welf. & Inst. Code, § 18999.8, subd. (a)(1).)

*Existing law* defines “homeless adult and family multidisciplinary personnel team” to mean any team of two or more persons who are trained in the identification and treatment of homeless adults and families, and who are qualified to provide a broad range of services related to homelessness. Specifies the types of professionals who may be on the team. (Welf. & Inst. Code, § 18999.8, subd. (b)(2).)

*Existing law* authorizes a county to establish a child abuse multidisciplinary personnel team within that county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect. (Welf. & Inst. Code, § 18961.7, subd. (a).)

*Existing law* defines “multidisciplinary personnel” in the context of child abuse and neglect as any team of three or more people who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases, and who are qualified to provide a broad range of services related to child abuse or neglect. Specifies the type of professionals who may be on the team. (Welf. & Inst. Code, § 18951, subd. (d).)

*Existing law* permits a city, county, city and county, or community-based nonprofit organization to establish a domestic violence multidisciplinary personnel team consisting of two or more persons who are trained in the prevention, identification, management, or treatment of domestic violence cases and who are qualified to provide a broad range of services related to domestic violence. (Pen. Code, § 13752, subd. (a).)

*Existing law* authorizes a city, county, city and county, or community-based nonprofit organization may establish a human trafficking multidisciplinary personnel team consisting of two or more persons who are trained in the prevention, identification, management, or treatment of human trafficking cases and who are qualified to provide a broad range of services related to human trafficking. (Pen. Code, § 13753, subd. (a).)

*Existing law* defines a “multidisciplinary personnel team” in the context of adult protective services to mean any team of two or more persons who are trained in the prevention, identification, management, or treatment of abuse of elderly or dependent adults and are qualified to provide a broad range of services related to abuse of elderly or dependent adults. (Welf. & Inst. Code, § 15610.55, subd. (a).)

*Existing law* allows an area agency on aging or a county, or both, to establish an aging multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of older adults to services and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating services. (Welf. & Inst. Code, § 9450, subd. (a)(1).)

*Existing law* defines “aging multidisciplinary personnel team” to mean any team of two or more persons who are trained in and who are qualified to provide a broad range of services related to older adults. (Welf. & Inst. Code, § 9450 subd. (b)(1).)

*This bill* authorizes a county to establish a mental health multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of justice-involved persons diagnosed with a mental illness to supportive services within that county while incarcerated and upon release from county jail and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating supportive services to ensure continuity of care.

*This bill* includes the following definitions:

- “Justice-involved person” means an individual who is currently incarcerated within a county jail or who has been incarcerated in a county jail.
- “Mental health multidisciplinary personnel team” means any team of two or more persons who are trained in the identification and treatment of individuals with mental illness, and who are qualified to provide a broad range of services related to mental health. Provides that the team may include, but is not be limited to, all of the following: mental health and substance abuse services personnel and practitioners or other trained counseling personnel; medical personnel with sufficient training to provide health services; social services workers with experience or training in the provision of services to adults with mental illness and eligibility for services; case managers or case coordinators responsible for referral, linkage, or coordination of care and services provided to adults or families.
- “Provider agency” means any governmental or other agency that has, as one of its purposes, the identification, assessment, and linkage of housing or supportive services to individuals with mental illness. Specifies that the provider agencies serving adults that may share information under this section include, but are not limited to, all of the following entities or service agencies:
  - Social services.
  - Health services.
  - Mental health services.
  - Substance abuse services.
  - Probation.
  - Law enforcement.
  - Legal counsel for the adult or family representing them in a criminal matter.
  - Veterans services and counseling.
  - Homeless services.

*This bill* authorizes members of a mental health multidisciplinary personnel team engaged in the identification, assessment, and linkage of supportive services to justice-involved persons to disclose to, and exchange with, one another, information and writings that relate to any information that may be designated as confidential under state law if the member of the team reasonably believes it is required for the identification of mental illness and the provision of services. Provides that any discussion relative to the disclosure or exchange of the information or writings during a team meeting is confidential and, notwithstanding any other law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.

*This bill* provides that disclosure and exchange of information may occur electronically if there is adequate verification of the identity of the mental health multidisciplinary personnel who are involved in that disclosure or exchange of information.

*This bill* prohibits disclosure and exchange of information to anyone other than members of the mental health multidisciplinary personnel team, and others as specified.

*This bill* requires all mental health multidisciplinary team members and their departments to establish and maintain a secure and standardized system for sharing a person's confidential records. Requires this system to ensure both of the following:

- All records and information is kept confidential in a manner that complies with all privacy laws.
- All records are guarded against unauthorized access.

*This bill* authorizes the mental health multidisciplinary personnel team to designate persons qualified, as specified, to be a member of the team for a particular case. Provides that a person designated as a team member may receive and disclose relevant information and records, subject to the confidentiality provisions in the bill.

*This bill* requires a county to develop protocols describing how and what information may be shared by the mental health multidisciplinary personnel team to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law. Requires a copy of the protocols to be distributed to each participating agency and to persons in those agencies who participate in the multidisciplinary personnel team, and to be posted on the county's internet website within 30 days of adoption. Requires each county to provide a copy of its protocols to the State Department of Health Care Services (DHCS). Specifies that DHCS does not need to review or approve any multidisciplinary personnel team county protocols that it receives.

*This bill* requires a protocol developed in a county to include, but not be limited to, all of the following:

- The items of information or data elements that will be shared.
- The participating agencies.
- A description of how the information shared will be used by the mental health multidisciplinary personnel team only for intended purposes.
- The information retention schedule that participating agencies shall follow.
- A requirement that no confidential information or writings be disclosed to persons who are not members of the multidisciplinary personnel team, except to the extent required or permitted under applicable law.
- A requirement that participating agencies develop uniform written policies and procedures that include security and privacy awareness training for employees who will have access to information pursuant to this protocol.
- A requirement that all persons who have access to information shared by participating agencies sign a confidentiality statement that includes, at a minimum, general use, security safeguards, acceptable use, and enforcement policies.
- A requirement that participating agencies employ security controls that meet applicable federal and state standards, including reasonable administrative, technical, and physical safeguards to ensure data confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure.

- A requirement that participating agencies take reasonable steps to ensure information is complete, accurate, and up to date to the extent necessary for the agency's intended purposes and that the information has not been altered or destroyed in an unauthorized manner.

*This bill* requires all transmissions to comply with the Confidentiality of Medical Information Act, the Information Practices Act of 1977, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the federal Health Information Technology for Economic and Clinical Health Act (HITECH), and the corresponding implementing regulations relating to privacy and security in the Code of Federal Regulations.

*This bill* requires every member of the mental health multidisciplinary personnel team who receives information or records regarding a justice-involved person in that member's capacity as a member of the team to be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. Requires the information or records obtained to be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

*This bill* provides that nothing in its provisions be construed to supersede or preempt the applicability of any existing state or federal privacy laws, including, but not limited to, the following:

- HIPAA
- The Information Practices Act of 1977.
- The Confidentiality of Medical Information Act.
- Section 5328 of the Welfare and Institutions Code.

*This bill* provides that information and records communicated or provided to the team members by all providers and agencies are to be deemed private and confidential and to be protected from discovery and disclosure by all applicable statutory and common law protections. Provides that existing civil and criminal penalties apply to the inappropriate disclosure of information held by the team members.

## COMMENTS

### 1. Need For This Bill

According to the author:

In the Orange County jail system alone, 45% of the justice-involved population grapples with mental health needs. This legislation empowers counties to establish multidisciplinary teams, facilitating the exchange of confidential information to streamline mental health service assessments. By prioritizing mental well-being and improving communication channels, we can create a foundation for targeted care, ensuring effective rehabilitation, adequate mental health treatment, and reducing the likelihood of recidivism in Orange County and beyond.

## 2. Mental Illness Among the County Jail Population

Mental illness is prevalent among the county jail population. A recent article noted:

While the jail population has dropped markedly over the last decade, the number of inmates with mental health needs has grown, from around 11,000 in the year preceding realignment to 25,000 before the pandemic. The BSCC defines inmates with mental health needs as those who have been identified as having a psychological disorder and who are actively in need of and receiving mental health services.

Following the pandemic-era drop in the overall jail population, the number of inmates with mental health needs also declined and is now around 19,000—still much higher than pre-realignment levels. Additionally, the percentage of inmates with mental health needs has continued to climb, from around 20% in January 2010 to a staggering 53% in June 2023. (Public Policy Institute of California (PPIC), *County jails house fewer inmates, but over half face mental health issues* (Oct. 23, 2023) available at <<https://www.ppic.org/blog/county-jails-house-fewer-inmates-but-over-half-face-mental-health-issues/>>.)

## 3. Multidisciplinary Teams

California first authorized multidisciplinary personnel teams (MDTs) in the 1980s. MDTs allow for a coordinated interagency response to elder abuse, child abuse, domestic violence, human trafficking, and homelessness. MDTs are formed and operated at the county level and bring together the expertise of a wide range of individuals trained in the prevention, identification, and treatment of elder abuse, child abuse, domestic violence, or human trafficking, and who are qualified to provide related services. In the case of homelessness, the MDT focuses on assessment and linkage to services. MDTs allow team members to share confidential information with each other for the purposes of meeting the specific goals of the MDT as outlined in statute. Statutes authorizing the creating of the various MDTs include provisions related to privacy and confidentiality.

MDTs are seen as an effective tool for conducting timely and objective investigations and facilitate coordination among the different agencies and entities participating on the MDT. This bill is modeled after existing statutes authorizing MDTs. Specifically, this bill authorizes a county to establish a mental health multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of justice-involved persons diagnosed with a mental illness to supportive services within that county while incarcerated and upon release from county jail. This bill also allows provider agencies and team members to share confidential information for the purpose of coordinating supportive services. Additionally, this bill includes a number of provisions designed to maintain the confidentiality of records, prevent improper disclosure of records, and generally provide guardrails to protect the privacy rights.

## 4. Amendment

The author is planning to amend the bill to include “tribal programs” within the list of entities included in the definition of “provider agency.”

## 5. Argument in Support

According to the California Academy of Child and Adolescent Psychiatry:

The integration of mental health services with the justice system is a critical step towards addressing the complex needs of individuals with mental health conditions who find themselves entangled in the criminal justice system. By facilitating a collaborative approach among mental health professionals, social services workers, medical personnel, and legal representatives, AB 1788 aims to ensure that justice-involved persons receive the comprehensive and continuous care necessary for their rehabilitation and reintegration into society.

The establishment of mental health multidisciplinary personnel teams, as outlined in AB 1788, aligns with CALACAP's commitment to improving mental health outcomes for all Californians, particularly those who are most vulnerable. The bill's provisions for the secure sharing of confidential information among team members are essential for coordinating effective supportive services while respecting the privacy and rights of individuals.

Furthermore, the bill's requirements for county protocols ensure that the collaborative efforts are standardized, transparent, and accountable, enhancing the overall efficacy of mental health interventions for justice-involved populations. This approach not only benefits the individuals directly involved but also has the potential to reduce recidivism rates, alleviate the burden on our correctional system, and improve community safety and well-being.

## 6. Argument in Opposition

Oakland Privacy writes:

The goals of Assembly Bill 1788 are goals that we share. Coordination to establish continuity of care for justice-involved people experiencing mental health challenges is laudable and clearly much-needed.

However, people experiencing mental health issues who are justice-involved are some of the Californians whose privacy rights are most frequently infringed and have one of the highest vulnerability levels for privacy abuses. ... Therefore, we believe that caution and strong guard rails are necessary when reducing the confidentiality of their medical records and personal information, even for the beneficial reason of increasing access to services.

...

We have some suggestions to improve the privacy safeguards in the bill.

1. Removal of the “not limited to” clause in the definition of qualified members of the mental health multi-disciplinary teams. We know that it can be difficult to proactively identify all appropriate job titles, but the listed categories are fairly broad and we cannot support a general catch-all phrase that incorporates basically anyone else. ... We understand the desire to provide flexibility, but such flexibility can be the mortal enemy of protective safeguards. ...
2. Removal of the “not limited to” clause in the listing of agencies that qualify to participate in mental health multidisciplinary teams. ... The list of agencies that can participate should be specific and limited and not contain a broad catch-all.
3. Law enforcement’s role should be limited. We understand that the multi-disciplinary teams are meant to encompass a period of time from incarceration to post-incarceration and that law enforcement participation is necessary for carceral periods. However, we have concerns about ongoing participation in a multi-disciplinary team after a person is released from a carceral institution. ... We would like the role of law enforcement to be constrained to transferring needed records with no ongoing participation in the multi-disciplinary teams overseeing an individual’s post-incarceration treatment and services.

...

We believe these changes will maintain the intent and purpose of the bill, while removing some overly flexible language that introduces higher risks of privacy violations and falls a bit short of the safeguards we recommend should be put into place.

-- END --