
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguin, Chair
2025 - 2026 Regular

Bill No: AB 1231 **Hearing Date:** July 15, 2025
Author: Elhawary
Version: July 1, 2025
Urgency: No **Fiscal:** Yes
Consultant: CA

Subject: *Criminal procedure: Safer Communities Through Opportunities Act*

HISTORY

Source: Drug Policy Alliance, Immigrant Legal Resource Center, PICO, SEIU, Los Angeles Regional Reentry Partnership, Vera Institute of Justice

Prior Legislation: SB 1282 (Smallwood-Cuevas), failed on the Senate Floor, 2024
SB 1025 (Eggman), Ch. 924, Stats. of 2024
SB 1223 (Becker), Ch. 735, Stats. of 2022
AB 3234 (Ting), Ch. 334, Stats. of 2020
SB 394 (Skinner), Ch. 593, Stats. of 2019
SB 215 (Beall), Ch. 1005, Stats. of 2018
AB 1810 (Committee on Budget), Ch. 34, Stats. of 2018
AB 208 (Eggman), Ch. 778, Stats. of 2017
AB 725 (Jackson), Ch. 179, Stats. of 2017
SB 1227 (Hancock), Ch. 658, Stats. of 2013

Support: ACLU California Action; All of US or None (HQ); Asian Americans Advancing Justice Southern California; Buen Vecino; California Alliance for Youth and Community Justice; California Coalition for Women Prisoners; California Community Foundation; California Immigrant Policy Center; California Public Defenders Association; Californians for Safety and Justice; Catalyst California; Coalition for Humane Immigrant Rights; Community Works; County of Los Angeles Board of Supervisors; Courage California; Ella Baker Center for Human Rights; Initiate Justice; Initiate Justice Action; Justice2jobs Coalition; LA Defensa; League of Women Voters of California; Legal Services for Prisoners With Children; Local 148 LA County Public Defenders Union; Matlin Legal; Robert Enterprise Development Fund; Rubicon Programs; SEIU California; Smart Justice California; South Bay People Power; Southeast Asia Resource Action Center; The W. Haywood Burns Institute; Valor US

Opposition: California District Attorneys Association; California Police Chiefs Association; California State Sheriffs' Association; Chief Probation Officers' of California; Riverside County District Attorney; San Diego County District Attorney's Office

Assembly Floor Vote: 42 - 25

PURPOSE

The purpose of this bill is to authorize a court to grant pretrial diversion for felony offenses, except as specified, for a period of up to 24 months, if the court determines that the defendant is suitable for diversion.

Existing law authorizes a city or county prosecuting attorney or county probation department to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses, as specified. (Pen. Code, § 1001.81.)

Existing law authorizes both misdemeanors and felonies to be diverted pretrial under the mental health diversion program for eligible defendants, except for the following offenses:

- Murder or voluntary manslaughter;
- An offense for which a person, if convicted, would be required to register as a sex offender, except indecent exposure;
- Rape;
- Lewd or lascivious act on a child under 14 years of age;
- Assault with intent to commit rape, sodomy, or oral copulation, in violation of Section 220;
- Commission of rape or sexual penetration in concert with another person;
- Continuous sexual abuse of a child; and,
- Use or deployment of a weapon of mass destruction. (Pen. Code, §1001.36.)

Existing law provides that the period during which criminal proceedings against the defendant may be diverted under mental health diversion is limited to no longer than one year for a misdemeanor and no longer than two years for a felony. (Pen. Code, §1001.36, subd. (f)(1)(C).)

Existing law states that if any of the following circumstances exists, the court shall, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether the criminal proceedings should be reinstated, whether the treatment should be modified, or whether the defendant should be conserved and referred to the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the defendant:

- The defendant is charged with an additional misdemeanor allegedly committed during the pretrial diversion and that reflects the defendant's propensity for violence;
- The defendant is charged with an additional felony allegedly committed during the pretrial diversion;
- The defendant is engaged in criminal conduct rendering the defendant unsuitable for diversion; or,

- Based on the opinion of a qualified mental health expert whom the court may deem appropriate, either of the following circumstances exists:
 - The defendant is performing unsatisfactorily in the assigned program, or,
 - The defendant is gravely disabled, as defined. (Pen. Code, §1001.36, subd. (g).)

Existing law states that if the defendant has performed satisfactorily in mental health diversion, at the end of the period of diversion, the court shall dismiss the defendant's criminal charges that were the subject of the criminal proceedings at the time of the initial diversion. (Pen. Code, §1001.36, subd. (h).)

Existing law authorizes a judge of the superior court in which a misdemeanor case is being prosecuted, at the judge's discretion and over the objection of a prosecuting attorney, to offer diversion to a defendant except if the defendant is charged with any of the following offenses:

- Any offense for which the defendant, if convicted, would be required to register as a sex offender;
- Any offense involving domestic violence; or,
- An offense of stalking. (Pen. Code, § 1001.95, subd. (a) & (e).)

Existing law states that a judge may continue a diverted misdemeanor case for a period not to exceed 24 months and order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the defendant's situation. (Pen. Code, § 1001.95, subd. (b).)

Existing law states that if the defendant has complied with the imposed terms and conditions, at the end of the period of diversion, the judge shall dismiss the action against the defendant. (Pen. Code, § 1001.95, subd. (c).)

Existing law states that if it appears that the defendant is not complying with the terms and conditions of misdemeanor diversion, after notice to the defendant, the court shall hold a hearing to determine whether the criminal proceedings should be reinstituted. If the court finds that the defendant has not complied with the terms and conditions of diversion, the court may end the diversion and order resumption of the criminal proceedings. (Pen. Code, § 1001.95, subd. (d).)

This bill states that a defendant charged with a felony offense may request diversion at any time prior to the start of a trial and the court may, in its discretion, grant pretrial diversion to a defendant if the court determines that the defendant is suitable, as provided.

This bill states that diversion may apply to any felony punishable either as a county-jail eligible felony or as an alternate state prison felony-misdemeanor, except if the felony offense is a "serious" felony or "violent" felony.

This bill additionally excludes from diversion eligibility:

- Any offense alleged to have caused great bodily injury or serious bodily injury;

- Any offense alleged to have involved the personal use of a firearm in the commission of an offense, as specified;
- A felony driving under the influence offense;
- Any offense for which a person, if convicted, would be required to register as a sex offender;
- Any offense involving domestic violence;
- A violation of stalking; or,
- Use or deployment of a weapon of mass destruction.

This bill states that in determining whether to grant felony diversion, the court may consider information provided by entities, including, but not limited to, defense counsel, the prosecution, probation or pretrial services, family or close contacts of the defendant, and service providers.

This bill provides that in determining whether diversion is appropriate, applicable considerations may include the defendant's trauma, victimization, and youth or other mitigating factors listed in the California Rules of Court. The court may also consider the defendant's age and health conditions.

This bill specifies that a history of having survived human trafficking, domestic violence, or sexual assault shall be given great weight as mitigating factors that indicate diversion is appropriate.

This bill states that a defendant's request for diversion may proceed on offers of proof, reliable hearsay, and arguments of counsel and shall proceed prior to any trial or plea of guilty or no contest.

This bill states that if the court, in its discretion, opts to conduct a hearing on whether to grant diversion, a defendant shall submit to the court and serve on the prosecution a proposed diversion plan and shall recommend in that plan either dual agency supervision or single agency supervision, as defined.

This bill states that the court shall not grant diversion unless it finds that the diversion plan mitigates any unreasonable risk of danger to public safety and finds that the defendant is likely to benefit from the services provided in the diversion plan.

This bill authorizes a court to order the defendant to comply with terms, conditions, or programs that the court finds appropriate for the strengths and needs of the defendant and based on the recommendations from the defendant, a social worker, a behavioral health worker, or health care professional. The court may also consider the perspective of the prosecutor, pretrial services office, or probation department in assessing any recommendation. If the defendant has a history of having survived human trafficking, domestic violence, or sexual assault, the diversion plan and proposal may rely on information or recommendations from a sexual assault counselor, a human trafficking caseworker, or a domestic violence counselor.

This bill states that the diversion plan ordered by the court shall include any conditions necessary to mitigate an unreasonable risk of danger to public safety.

This bill provides that upon a court granting diversion, any bail, bond or undertaking, or deposit in lieu thereof on behalf of the defendant shall be exonerated.

This bill allows the court to continue the criminal proceedings for up to 24 months.

This bill defines the following terms:

- “Dual agency supervision” means a court-approved, individually-tailored diversion plan administered jointly by the treatment agency and by a county probation department or pretrial services department for a specified period of time. Under dual agency supervision, the treatment agency shall administer the treatment rehabilitation program;
- “Single agency supervision” means a court approved, individually-tailored diversion plan administered by a treatment agency, for a specified period of time. The treatment agency may include a government-sponsored or community-based job training services center or reentry service provider; and,
- “Treatment agency” may include a government or community-based organization, including, but not limited to, a county health department, a county workforce development department, a behavioral health or reentry services provider, or a similar agency or community-based organization partnering with a county department.

This bill requires the court to order single agency supervision, unless it finds that single agency supervision is not practical or that dual agency supervision is necessary to mitigate unreasonable risks to public safety.

This bill requires the treatment agency to provide progress reports every three months to the court, defense and prosecution under single agency supervision, or to the probation department under dual agency supervision, and requires the probation department to submit copies of the report to the court, defense, and prosecution within five judicial days of receipt of the report.

This bill specifies that if the treatment agency is a community-based organization, the following shall apply: eligibility:

- The organization shall adhere to similar transparency, accountability, and outcome measure standards that apply to a government or county department;
- The organization shall not pay wages and benefits to its most highly compensated executive and managerial employees that are significantly higher than the rates that would be paid to public employees performing similar job duties; and,
- The court shall prioritize ordering services by an organization with a record of providing culturally competent and reasonable rehabilitative services.

This bill provides that while courts may order the defendant to participate in diversion plan services by government or community-based providers, nothing is intended to reduce employment by government agencies.

This bill states that a defendant whose charges have been diverted shall be ordered to pay full restitution, however, a defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

This bill requires a court, in determining that dismissal is warranted upon completion of the proposed diversion plan, to consider unpaid restitution only if nonpayment was willful and not due solely to indigence or inability to pay. If diversion is completed, but the defendant has an outstanding restitution order balance, a case may be dismissed and the restitution payment shall be enforceable as if the order were a civil judgment.

Existing law generally mandates that relevant evidence, with limited exceptions, is admissible in criminal proceedings. This is known as the Truth-in-Evidence provision. (Cal. Const., Art. I, sec. 28, subd. (f)(2).)

This bill provides that any statement, information, or progress reports concerning the defendant's diversion plan, including, but not limited to, health information, evaluations, clinical or treatment notes, or services provided, or any other records related to treatment that were provided for the purpose of facilitating, or as a result of participation in, or completion of, diversion or for use in determining the defendant's eligibility for diversion shall not be used in any other proceeding without the defendant's consent, unless that information is relevant evidence that is admissible under the Truth-in-Evidence standards of the California Constitution. This applies even if diversion is denied or subsequently revoked.

This bill authorizes a court to modify a felony diversion plan if it appears, following a hearing on the matter, that the defendant is not meeting the terms and conditions of the diversion program. Allows the court to modify the diversion plan to provide for greater supervision by either the treatment agency or the probation department, or both. A hearing shall not be held until after the defendant is given notice. The hearing shall follow the evidentiary rules applicable to a probation violation hearing.

This bill states that a court may hold a hearing to determine whether criminal proceeding should be reinstated if any of the following circumstances exist:

- The defendant is charged with a misdemeanor allegedly committed while the defendant is receiving pretrial diversion services that reflects the defendant's propensity for violence;
- The defendant is charged with a felony allegedly committed while the defendant is receiving pretrial diversion services; or,
- Unsatisfactory performance in the diversion plan that causes the court to believe that no additional terms, conditions, or services can mitigate unreasonable risks to public safety.

This bill provides that a hearing to reinstitute criminal proceedings may be initiated by the court or the prosecutor, or, in cases of dual agency supervision, the probation department and may proceed only after notice to the defendant.

This bill provides that a hearing to reinstitute criminal proceedings shall not proceed until probable cause has been established in the subsequent felony allegations.

This bill requires the court to dismiss the criminal allegations if at the end of the period of diversion the defendant has complied with the imposed terms and conditions and the arrest upon which the diversion was based shall be deemed to have never occurred. The court shall order the record sealed and disclosed only as provided.

This bill specifies that an order to seal arrest records has no effect on a criminal justice agency's ability to access and use those sealed records and information, as described.

This bill specifies that the provisions of this bill shall be implemented only to the extent that it does not conflict with an initiative statute.

This bill provides that if the court has reduced a felony to a misdemeanor, the misdemeanor diversion provisions in existing law apply.

This bill states that nothing in it is intended to conflict with Marsy's Law or a victim's right to participate in these proceedings.

COMMENTS

1. Need for This Bill

According to the author:

AB 1231 would allow judges to grant diversion programs and services, rather than solely rely on traditional punishment. This keeps our communities safe, gets people back into the workforce or connected with behavioral health services as needed, ultimately lowering costs to the state.

2. Background on Diversion

Diversion is the suspension of criminal proceedings for a prescribed time period with certain conditions. A defendant may not be required to admit guilt as a prerequisite for placement in a pretrial diversion program. If diversion is successfully completed, the criminal charges are dismissed and the defendant may, with certain exceptions, legally answer that he or she has never been arrested or charged for the diverted offense. If diversion is not successfully completed, the criminal proceedings resume, however, a hearing to terminate diversion is required.

Diversion programs may be pre-plea or post-plea (often called deferred entry of judgement). Pre-plea programs allow a defendant to participate in the program without admitting guilt. In post-plea programs, the defendant must first admit guilt before participating in the program. The main difference between the two types of diversion is that in a pre-plea program, if the defendant does not successfully complete the program, criminal proceedings resume and the defendant has the option to plead guilty or pursue a defense against their case. In a post-plea diversion program, if a defendant does not successfully complete the program, the defendant having already plead guilty, would be sentenced.

In recent years, the Legislature has enacted several pre-plea diversion programs such as military diversion (SB 1227 (Hancock), Chapter 658, Statutes of 2013), mental health

diversion (SB 215 (Beall), Chapter 1005, Statutes of 2017), diversion for primary caretakers (SB 394 (Skinner), Chapter 593, Statutes of 2019), and court-initiated misdemeanor diversion (AB 3234 (Ting), Chapter 334, Statutes of 2020). Drug diversion was enacted as a preplea program and changed to a postplea program in 1997 (SB 1369 (Kopp), Chapter 1132, Statutes of 1996), then in 2017 changed back to a preplea program (AB 208 (Eggman), Chapter 778, Statutes of 2017).

Existing law authorizes a city or county prosecuting attorney or county probation department, until January 1, 2031, to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses and specifies that the prosecuting attorney is to determine who to refer to the program and who is appropriate for placement in the program. For purposes, of the program, “repeat theft offenses” means being cited or convicted for misdemeanor or felony theft from a store or vehicle two or more times in the previous 12 months and failing to appear in court when cited for these crimes or continuing to engage in these crimes after release or after conviction. (Pen. Code, § 1001.81.)

3. Misdemeanor Diversion

As referenced above, existing law authorizes a judge to suspend criminal proceedings and divert a misdemeanor defendant, over the objection of the prosecution, except in cases of stalking, domestic violence and any offense requiring sex offender registration. The judge has broad authority to order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the specific situation. However, the case may not be diverted for a period exceeding 24 months. Similar to other existing diversion programs, if a defendant successfully completes diversion, the charges would be dismissed; if not, the judge is to hold a hearing to determine whether the defendant has not complied with the terms and conditions of diversion and whether the criminal proceedings should be reinstituted. Unlike some of the other existing pre-plea diversion programs such as mental health diversion or military diversion, court-initiated diversion contains no statutory requirements for the defendant to satisfy in order to be eligible other than the crimes that are specifically excluded. (Pen. Code, § 1001.95.)

Whether or not to divert a misdemeanor defendant is in the trial court's discretion. However, judicial discretion is not without limits. “[A]ll exercises of legal discretion must be grounded in reasoned judgment and guided by legal principles and policies appropriate to the particular matter at issue.” (*People v. Russel* (1968) 69 Cal.2d 187, 195.) A trial court abuses its discretion when it exceeds the bounds of reason, all of the circumstances before it being considered. (*Id.*, at p. 194.)

This bill creates a similar diversion program to the misdemeanor court-initiated diversion program but applied to felonies that are either punishable as county-jail eligible felonies or alternate felony-misdemeanors, also known as “wobblers.” It excludes any offenses on the “serious” or “violent” felonies list, offenses alleged to have caused great bodily injury or serious bodily injury, offenses where it is alleged defendant personally used a firearm in the commission of a felony, or alleged felony driving under the influence. The bill would also exclude offenses that are excluded in misdemeanor diversion, specifically any crime where a person would be required to register as a sex offender, any domestic violence offense, or any stalking offense. Additionally, the bill would exclude use or deployment of a weapon of mass destruction, which is excluded from mental health diversion.

This bill specifies that the criminal proceedings may be continued for a period not to exceed two years which is also the same period of time specified in misdemeanor diversion. Restitution would still be ordered in full, although inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

In determining whether the defendant is suitable for diversion, the court is required to consider specified mitigating circumstances with great weight to be given to a history of having survived human trafficking, domestic violence, or sexual assault that would indicate that diversion would be appropriate.

This bill requires that any diversion plan ordered by the court shall include any conditions necessary to mitigate an unreasonable risk of danger to public safety. The treating agency is required to submit progress reports to the court, prosecution, and defense every three months, or to submit progress reports to the probation department every three months if the defendant is on dual agency supervision and the probation department would send copies of the reports to the courts, defense and prosecution.

This bill provides that if the defendant is not meeting the terms and conditions of the diversion program, the court may modify the diversion to provide for greater supervision. A hearing to reinstitute criminal proceedings may be initiated by the court or the prosecutor, or, in cases of dual agency supervision, the probation department and may proceed only after notice to the defendant. If any of the following circumstances exist, that would be cause to hold a hearing to determine whether to reinstate criminal proceedings: (1) the defendant is charged with a misdemeanor allegedly committed during diversion which reflects the defendant's propensity for violence; (2) the defendant is charged with a felony allegedly committed while the defendant is receiving pretrial diversion services; or, (3) unsatisfactory performance in the diversion plant that causes the court to believe that no reasonably available additional terms, conditions, or services can mitigate unreasonable risks to public safety. For a felony charge, this bill would require probable cause to be established prior to conducting a hearing on reinstituting criminal proceedings.

On the other hand, if the defendant successfully complies with the terms and conditions of diversion, at the end of the period of diversion, the court shall dismiss the criminal allegations. Any record of the arrest or charges shall be deemed to have never occurred.

4. Mitigating Factors

This bill specifies that in determining whether diversion is appropriate, the court may consider mitigating circumstances, as listed in existing statute and rules of court, including whether the person has experienced psychological, physical, or childhood trauma, whether the person is a youth or was a youth at the time of the commission of the offense, or the person is or was a victim of intimate partner violence or human trafficking prior to or during the offense. Additionally, the bill states that the court and may consider the defendant's age and health conditions.

The rules of court lists out circumstances in mitigation that apply to either the circumstances of the crime (i.e. defendant's role was minor or committed under coercion or mistake) or characteristics of the defendant (i.e. defendant was under 26 years of age, or had prior

victimization that contributed to the offense, or has little to no criminal record.) (Cal. Rules of Court, rule 4.423.)

This bill also specifies that a history of having survived human trafficking, domestic violence, or sexual assault shall be given great weight as mitigating factors that indicate diversion is appropriate.

5. Single and Dual Agency Supervision

Penal Code section 1001.20 *et seq* authorizes diversion for persons with cognitive developmental disabilities, as determined by a regional center of the California Department of Developmental Services, and who have been charged with an eligible misdemeanor or felony offense. This is known as cognitive disability diversion (or regional center diversion). Eligible defendants are diverted under either single or dual agency supervision. Under single agency supervision, the regional center develops treatment and programs directed at the defendant's needs, which it then administers to the eligible defendant. Under dual agency supervision, the regional center develops treatment and programs directed at the defendant's needs, which it then administers jointly with the probation department to eligible the defendant.

This bill also provides for single or dual agency supervision. However, a court is required to order single agency supervision, unless it finds that single agency diversion is not practical or that dual agency diversion is necessary to mitigate unreasonable risks to public safety.

Under "single agency supervision," the diversion plan is administered by a treatment agency. The treatment agency may include a government-sponsored or community-based job training services center or reentry service provider.

Under "dual agency supervision," the diversion plan is administered jointly by the treatment agency and by a county probation department or pretrial services department. Under dual agency supervision, the treatment agency shall administer the treatment rehabilitation program.

This bill also provides that "treatment agency" may include a government or community-based organization, including, but not limited to, a county health department, a county workforce development department, a behavioral health or reentry services provider, or a similar agency or community-based organization partnering with a county department.

6. Related Legislation

AB 46 (Nguyen) makes various changes to the mental health diversion program including raising the public safety standard criteria for finding a particular defendant suitable for diversion. AB 46 is pending in Senate Appropriations.

AB 433 (Krell) would have excluded additional crimes from eligibility for mental health diversion. AB 433 failed passage in Assembly Public Safety.

SB 483 (Stern) adds another suitability factor for granting mental health diversion, requiring the court be satisfied that the recommended mental health treatment program is consistent with the purpose of diversion, and the defendant agrees it will meet their specialized

treatment needs. SB 483 is pending in Assembly Public Safety.

7. Argument in Support

According to the Vera Institute of Justice, a sponsor of this bill:

...AB 1231 by Assemblymember Elhawary ...will grant judges additional tools to offer programs and services for people charged with non-violent, non-serious offenses. Court-supervised diversion programming expands opportunities for justice, creates pathways to meaningful accountability, and reduces racial disparities and recidivism.

As both a recipient of diversion and a policy advocate informed by rigorous research, I know firsthand—and the evidence clearly demonstrates—that diversion works.

As a recipient of diversion, I cannot stress enough how life changing this type of relief is for people navigating the justice system. As a youth survivor of sexual assault, and as someone who lacked supportive resources, I developed a substance use disorder as an unhealthy coping mechanism. I soon found myself in jail. However, after speaking with my public defender and the judge overseeing my case, I was able to enroll in diversion instead of solely facing punishment and incarceration as a result of my trauma. I enrolled in an adult school office technology program, which became my foundation for higher education, meaningful employment, and deeper engagement in my community. I went on to attend community college, the University of California, Berkeley, and now advocate for criminal justice reform as a Senior Program Associate at Vera California. **Diversion unequivocally saved my life.**

The research also shows that community-based diversion programs have improved public safety for Californians statewide. Participants in California's diversion programs come into contact with the justice system at a significantly lower rate (15.3 percent) compared to similar people leaving state prisons (41.9 percent). Diversion programs that offer targeted, light-touch services such as job training, education, housing, treatment for substance use and mental health, empower people to address their underlying needs, which reduces future contact with the criminal legal system.

Moreover, evidence shows diversion programs are key to reducing racial disparities in the criminal legal system. To this day, Black and brown Californians are arrested at disproportionately higher rates than white people in nearly all of California's 58 counties. Expanded judicial discretion to grant diversion would likely decrease these racial disparities, helping even more Californians avoid the severe, long-term collateral consequences of incarceration—such as barriers to employment, housing, and education—that increase recidivism. **As a Native and Latina youth, receiving diversion gave me the opportunity to overcome the generational cycle of incarceration and educate myself.**

Diversion programs, which tap into existing community services, are also much more cost-effective than prisons and traditional court processing. This is

particularly true in rural areas like the Central Valley, where resources are historically limited, and expanded diversion programming provides crucial opportunities for people to achieve stability, thereby enhancing public safety. **My experience demonstrates this potential: having access to local resources and counselors in the Central Valley, who believed in me, enabled me to avoid further incarceration and become the advocate I am today.**

AB 1231 has three important parts. First, it expands judicial authority to offer pretrial diversion programs and services for people facing eligible non-serious, non-violent felony charges that typically result in county jail sentences of up to three years. This flexibility empowers judges to more effectively tailor pretrial decisions based on people's individualized circumstances.

Second, the bill requires people receiving diversion to develop detailed plans that clearly outline the services they need, including employment support, behavioral healthcare, and job training. The collaborative approach could involve social workers, rape crisis counselors, and community service providers. Judges must also review the plan in consultation with district attorneys, public defenders, or any other relevant agencies. Community safety is prioritized through diversion: judges are instructed to deny diversion if the diversion plan fails to "mitigate unreasonable risks to public safety."

Lastly, AB 1231 especially prioritizes sexual assault survivors like me, who are often arrested and punished for actions that are a result of their trauma and exploitation.

8. Argument in Opposition

According to the Chief Probation Officers of California:

This bill would make significant changes to felony sentencing processes by creating diversion eligibility for a broad scope of felony offenses without a clear and commensurate benefit to public safety.

Several diversion and DEJ statutes and programs already exist around various offenses or collaborative court models. These collaborative court models are specific to categories of individuals charged with specified offenses. The Legislature has recognized that certain groups including those with substance use or mental health disorders, or veterans, may benefit from these collaborative court models. Concurrently, other judicial pathways have been retained for addressing the myriad of felony offenses where diversion or DEJ may not be deemed suitable or where eligibility criteria have not been met. This bill opens a path to a broad scope of felony offenses to be diverted from criminal justice system responses regardless of whether an individual meets specific factors.

We are concerned that the expansion of felony diversion, particularly considering the structure of the bill to establish tiers of single and dual agency supervision will create significant confusion, create court inefficiencies, and is not in the best interest of public safety. For example, this would establish processes whereby a treatment agency, which may be an entity with no connection to the court or court

orders, or have peace officer authority, could be overseeing the treatment and reporting to the court on someone with a felony offense. Additionally, it would propose to have the defendant develop their own diversion plan and make recommendations for who should supervise them based on the new proposed multi-agency model.

While we recognize the role that specific collaborative court programs can play in helping people to get connected to services through court ordered treatment and accountability, this bill goes beyond that model to apply diversion to a broad list of felony offenses and creates new procedures that create ambiguity and are not in the best interest of public safety, accountability and rehabilitation.

– END –