
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguin, Chair
2025 - 2026 Regular

Bill No: AB 1825 **Hearing Date:** June 16, 2026
Author: Krell
Version: April 16, 2026
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Health care: state hospitals*

HISTORY

Source: California State Association of Psychiatrists

Prior Legislation: AB 348 (Krell), Ch. 688, Stats. of 2025
AB 2465 (Haney), Ch. 963, Stats. of 2024
SB 591 (Galgiani), Ch. 649, Stats. 2019
SB 1295 (Nielsen), Ch. 430, Stats. of 2016

Support: California Behavioral Health Association; California District Attorneys Association

Opposition: None known

Assembly Floor Vote: 74 - 0

PURPOSE

The purpose of this bill is to specify the factors that must be considered in determining whether an offender poses a substantial danger of physical harm to others for purposes of commitment as an offender with a mental health disorder (OMHD).

Existing law provides that the Legislature finds that there are incarcerated individuals who have a treatable, severe mental health disorder that was one of the causes of, or was an aggravating factor in, the commission of the crime for which they were incarcerated. Provides that the Legislature finds that if the severe mental health disorders of those incarcerated individuals are not in remission or cannot be kept in remission at the time of their parole or upon termination of parole, there is a danger to society, and the state has a compelling interest in protecting the public. Provides that the Legislature finds that in order to protect the public from those persons, it is necessary to provide mental health treatment until the severe mental health disorder that was one of the causes of or was an aggravating factor in the person's prior criminal behavior is in remission and can be kept in remission. (Pen. Code, § 2960, subd. (a).)

Existing law provides that the Legislature further finds and declares the California Department of Corrections and Rehabilitation (CDCR) should evaluate each incarcerated individual for severe mental health disorders during the first year of the person's sentence, and that incarcerated individuals with severe mental health disorders should be provided with an appropriate level of

mental health treatment while in prison and when returned to the community. (Pen. Code, § 2960, subd. (b).)

Existing law allows the Board of Parole Hearings (BPH), upon a showing of good cause, to order an incarcerated person to remain in custody for up to 45 days past the person's scheduled release date for a full OMHD evaluation. Defines good cause to mean circumstances where there is a recalculation of credits or a restoration of denied or lost credits, a resentencing by a court, the receipt of the incarcerated individual into custody, or equivalent exigent circumstances which result in there being less than 45 days prior to the person's scheduled release date for the OMHD evaluation. (Pen. Code, § 2963.)

Existing law requires incarcerated persons who meet the following criteria to be deemed an OMHD and be treated by the Department of State Hospitals (DSH) as a condition of parole:

- The incarcerated person has a severe mental health disorder that is not in remission or that cannot be kept in remission without treatment.
- The severe mental health disorder was one of the causes of, or was an aggravating factor in, the commission of a crime for which the person was sentenced to prison.
- The incarcerated person has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the person's parole or release.
- The person's severe mental health disorder indicates that the person represents a substantial danger of physical harm to others. (Pen. Code, § 2962, subd. (a)-(d).)

Existing law defines "severe mental health disorder" as an illness, disease, or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or that grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. Specifies that "severe mental health disorder" does not include a personality or adjustment disorder, epilepsy, intellectual disability or other developmental disabilities, or addiction to or abuse of intoxicating substances. (Pen. Code, § 2962, subd. (a)(2).)

Existing law defines "remission" as a finding that the overt signs and symptoms of the severe mental health disorder are controlled either by psychotropic medication or psychosocial support. (Pen. Code, § 2962, subd. (a)(3).)

Existing law provides that a person "cannot be kept in remission without treatment" if during the year prior to the question being before the BPH or a trial court, the person has been in remission and has been physically violent, except in self-defense, or has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for their safety or the safety of their immediate family, or the person has intentionally caused property damage, or has not voluntarily followed the treatment plan. Provides that in determining if a person has voluntarily followed the treatment plan, the standard is whether the person has acted as a reasonable person would in following the treatment plan. (*Ibid.*)

Existing law requires the crime for which the person was sentenced to prison to meet the following criteria:

- The defendant received a determinate sentence.

- The crime is one of the following: voluntary manslaughter; mayhem; kidnapping; a robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon in the commission of that robbery; carjacking if the defendant personally used a deadly or dangerous weapon in the commission of the carjacking; rape; sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under 14 years of age; continuous sexual abuse; sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; arson; a felony in which the defendant used a firearm; igniting an explosive or destructive device; attempted murder; any crime not enumerated in which the person used force or violence, or caused serious bodily injury; or a crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in a manner that a reasonable person would believe and expect that the force or violence would be used. (Pen. Code, § 2962, subd. (e).)

Existing law provides that “substantial danger of physical harm” does not require proof of a recent overt act. (Pen. Code, § 2962, subd. (g).)

Existing law allows the incarcerated person to request a hearing before BPH for the purpose of proving that the person meets the OMHD criteria. Provides that the burden of proof is on the person or agency who certified the person as an OMHD. Provides that the incarcerated person has the right to a jury trial and the right to be represented by an attorney. Provides that the standard of proof is beyond a reasonable doubt, and if the trial is by jury, the jury verdict must be unanimous. (Pen. Code, § 2966, subds. (a), (b).)

Existing law requires CDCR, if the court or jury finds that the person does not meet the OMHD criteria and the person is eligible for release, to notify the probation department of the county of supervision of the pending release within five working days of the court order and work with the county of supervision to coordinate the orderly and safe release of the incarcerated person. (Pen. Code, § 2966, subd. (b).)

This bill requires the following factors to be considered in determining whether an offender poses a substantial danger of physical harm to others for purposes of commitment as an OMHD:

- A recent threat of violence or act of violence directed toward another individual, group, or location.
- A recent threat of violence or act of violence directed toward themselves.
- A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence directed toward themselves or another individual, group, or location.
- A history of violent behavior, including prior convictions for violent offenses.
- Treatment compliance history and response to treatment.
- Prior history of forensic state hospital commitment, as specified.

This bill requires CDCR, if the person is determined not to be an OMHD and eligible for release, to notify the behavioral health department of the county of supervision of the person’s pending

release within five working days of the court order and work with the county of supervision's behavioral health department to coordinate an exit plan for the release of the incarcerated person.

This bill requires the exit plan include, but is not limited to, both of the following:

- The submission of a Medi-Cal application.
- A recommendation to the supervising county's behavioral health department by a licensed behavioral health professional who is, or has been within the previous 30 days, supervising the treatment of, or treating, the individual for a mental health disorder for any of the following, as appropriate:
 - Suicide prevention.
 - Substance use disorder treatment.
 - Medi-Cal enhanced care management.
 - Full-service partnership, as specified.
 - Assisted outpatient treatment.
 - The Community Assistance, Recovery, and Empowerment (CARE) Act.
 - Forensic assertive community treatment program.
 - Whether the offender meets the definition of gravely disabled, as defined, and if the supervising county should pursue a court-ordered mental health evaluation.
 - Early psychosis intervention services.

This bill provides that an individual with a serious mental illness is presumptively eligible for a full-service partnership if the person is transitioning to the community after six months or more in a state hospital.

COMMENTS

1. Need For This Bill

According to the author:

The Offenders with Mental Health Disorders (OMHD) program is a key tool to help ensure that formerly incarcerated individuals can safely and smoothly transition back to our California communities. But reforms on both the front-end and the back-end will better protect public safety. Specifically, the existing criteria used to determine eligibility for the OMHD program have been broadly interpreted, allowing offenders with severe conditions to successfully challenge their status in court and reenter society, even though they pose a serious risk to themselves and the community. Furthermore, once these individuals are released, they lack access to appropriate services. AB 1825 takes a multi-layered approach, addressing these issues by requiring specific criteria to be evaluated when determining OMHD status, further defining what constitutes an exit plan, and expanding Medi-Cal eligibility. This ensures that those who need treatment receive it and prioritizes the safety of our communities.

2. OMHD Commitment

An OMHD commitment, formerly known as a mentally disordered offender commitment, is a post-prison civil commitment to further detain a person with a severe mental health disorder. The OMHD Act is designed to confine a mentally ill individual who is about to be released on parole

when it is deemed that that the person's mental illness not only contributed to the commission of a violent crime but also continues to make them dangerous to others. Rather than release the person to the community, CDCR paroles the incarcerated person to the supervision of the state hospital, and the individual remains under hospital supervision throughout the parole period.

Penal Code section 2962 lists the criteria that must be proven for an initial OMHD certification: the incarcerated person has a severe mental disorder; the severe mental disorder was one of the causes or an aggravating factor in the commission of the offense; the disorder is not in remission or capable of being kept in remission without treatment; the incarcerated person was treated for the disorder for at least 90 days in the year before their release; and by reason of the severe mental disorder, the person poses a substantial danger of physical harm to others. (Pen. Code, § 2962, subds. (a)-(d).)

The initial determination that the incarcerated person meets the OMHD criteria is made administratively. The person in charge of treating the incarcerated person and a practicing psychiatrist or psychologist from DSH evaluate the incarcerated person. If it appears that the incarcerated person meets the OMHD criteria, the chief psychiatrist then will certify so to BPH.

The incarcerated person may request a hearing before BPH to require proof that they qualify as an OMHD. If BPH determines that the person meets the criteria of an OMHD, the person may file a petition in the superior court of the county in which they are incarcerated or are being treated for a hearing on whether they, as of the date of the board hearing, meet the criteria. (Pen. Code, § 2966, subd. (a).) The person is entitled to a jury trial, which can be waived. The jury must unanimously agree that the allegations of the petition were proven beyond a reasonable doubt. If the court or jury reverses the BPH determination, the court must stay the execution of the decision for up to 30 days to allow for an orderly release of the person. (Pen. Code, § 2966, subd. (b).) If the court or jury finds that the person does not meet the OMHD criteria and the person is eligible for release, CDCR must notify the probation department of the county of supervision of the pending release within five working days of the court order and work with the county of supervision to coordinate the release of the incarcerated person. (*Ibid.*)

Under current law, an OMHD must receive inpatient treatment unless there is reasonable cause to believe that the person can be safely and effectively treated on an outpatient basis. (Pen. Code, § 2964.) If the person's severe mental disorder is put into remission during the parole period and can be kept in remission, DSH must discontinue treatment. (Pen. Code, § 2968.) However, if prior to the termination of parole, the person's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital that is treating the person must notify the district attorney who can file a petition in the superior court for continued involuntary treatment for one year.. (Pen. Code, § 2970.)

3. Effect of This Bill

This bill has two primary components. First, it specifies factors that must be considered in determining whether an offender poses a substantial danger of physical harm to others for purposes of commitment as an OMHD. Second, the bill requires CDCR to notify the behavioral health department of the county of supervision of a person's pending release and work with the county of supervision's behavioral health department to coordinate an exit plan for the release of the incarcerated person if the person is determined not to be an OMHD and eligible for release.

In making the determination about whether an offender poses a substantial danger of physical harm to others for purposes of an OMHD commitment, the bill requires the evaluator to consider if any of the following types of incidents have occurred or whether the person has any of the following historical factors:

- A recent threat of violence or act of violence directed toward another individual, group, or location.
- A recent threat of violence or act of violence directed toward themselves.
- A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence directed toward themselves or another individual, group, or location.
- A history of violent behavior, including prior convictions for violent offenses.
- Treatment compliance history and response to treatment.
- Prior history of forensic state hospital commitment, as specified.

As part of the requirement that CDCR coordinate with the county of supervision on the person's exit plan, the bill requires the exit plan to include the submission of a Medi-Cal application and a recommendation to the supervising county's behavioral health department by a licensed behavioral health professional who is, or has been, supervising the treatment of, or treating, the individual for a mental health disorder for specified treatments, case management, evaluations, or referrals, including substance use disorder treatment, full-service partnership, assisted outpatient treatment, evaluation as an offender who meets the definition of gravely disabled, or early psychosis intervention services, among others.

4. Argument in Support

The California State Association of Psychiatrists, the bill's sponsor, writes:

Current law allows the Board of Parole Hearings to require treatment for individuals whose severe mental disorder contributed to the commission of a violent offense and who, as a result of that disorder, may represent a substantial danger of physical harm to others. However, the absence of clear standards for evaluating dangerousness and the lack of structured exit planning can result in abrupt termination of OMHD classification and direct discharge to the community without adequate clinical coordination or safeguards.

A violence risk assessment is most effective when it incorporates well-established factors, including recent threats or acts of violence toward others or oneself, patterns of violent behavior, prior violent offenses, treatment compliance and response, and prior state hospital commitments. Establishing these factors in statute will help ensure that risk evaluations are thorough, consistent, and informed by evidence-based practices. AB 1825 recognizes the importance of coordinated reentry planning by requiring collaboration with county behavioral health departments and consideration of programs such as Assisted Outpatient Treatment, CARE Court, or Forensic Assertive Community Treatment when individuals are released to the community.

Finally, this legislation strengthens continuity of care by requiring structured exit plans and by allowing individuals in state hospitals to enroll in Medi-Cal and receive Medi-Cal services during the 90 days prior to release, aligning them with policies already available to people leaving prisons and jails. These provisions support effective coordination and timely access to psychiatric care, medication, and community-based services—interventions that are essential for stabilizing serious mental illness and reducing the likelihood of relapse or re-offense.

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