
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: SB 1427 **Hearing Date:** April 5, 2022
Author: Ochoa Bogh
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Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Board of State and Community Corrections: Homeless and Mental Health Court and Transitioning Home Grant Programs*

HISTORY

Source: Author

Prior Legislation: None

Support: California Police Chiefs Association; California State Sheriffs' Association; San Bernardino County Sheriff's Department; Social Work Action Group

Opposition: None known

PURPOSE

The purpose of this bill is to establish two new grant programs administered by the Board of State and Community Corrections, the Homeless and Mental Health Court Grant Program and the Transitioning Home Grant Program.

Existing law establishes the Board of State and Community Corrections (BSCC). (Pen. Code, § 6024, subd. (a).)

Existing law requires the BSCC to do the following, among other things:

- Develop recommendations for the improvement of criminal justice and delinquency and gang prevention activity throughout the state;
- Identify, promote, and provide technical assistance relating to evidence-based programs, practices, and promising and innovative projects consistent with the mission of the board;
- Receive and disburse federal funds, and perform all necessary and appropriate services in the performance of its duties as established by federal acts;
- Develop procedures to ensure that applications for grants are processed fairly, efficiently, and in a manner consistent with the mission of the board;
- Identify delinquency and gang intervention and prevention grants that have the same or similar program purpose, are allocated to the same entities, serve the same target populations, and have the same desired outcomes for the purpose of consolidating grant funds and programs and moving toward a unified single delinquency intervention and prevention grant application process in adherence with all applicable federal guidelines and mandates;

- Cooperate with and render technical assistance to the Legislature, state agencies, local governments, or other public or private agencies, organizations, or institutions in matters relating to criminal justice and delinquency prevention;
- Develop incentives for units of local government to develop comprehensive regional partnerships whereby adjacent jurisdictions pool grant funds in order to deliver services, to a broader target population and maximize the impact of state funds at the local level;
- Conduct evaluation studies of the programs and activities assisted by the federal acts.
- Identify and evaluate state, local, and federal gang and youth violence suppression, intervention, and prevention programs and strategies, along with funding for those efforts. (Pen. Code, § 6027, subd. (b).)

This bill establishes the Homeless and Mental Health Court Grant Program to be administered by the BSCC.

This bill requires the board to award grants, on a competitive basis, to counties. Requires the board to establish minimum standards, funding schedules, and procedures for awarding grants to counties that have established a mental health court, homeless court, or hybrid collaborative that incorporates the features of both a mental health court and a homeless court or to counties that commit to doing so upon receipt of funding pursuant to the grant.

This bill provides that Homeless and Mental Health Grant Program funds may be used by recipient counties for any one or more of the following purposes:

- Salaries and related costs for county personnel to provide mental health evaluation, housing navigation services, drug treatment referral, or other risk and needs evaluation for criminal defendants charged with a misdemeanor or infraction offense, or who are convicted of a misdemeanor or infraction offense, and are homeless, at risk of homelessness upon release from jail, or who suffer from a mental disorder that was a significant factor in the commission of the charged misdemeanor or infraction offense.
- Establishment or expansion of, a mental health court, homeless court, or hybrid collaborative court. Provides that expenditures may include any necessary training, salaries for support personnel, including probation department personnel, court facility expansion or renovation, or the expansion or renovation of treatment or evaluation space, but shall not include judicial salaries.
- Funding for services provided pursuant to contracts between the recipient county's probation department and drug treatment providers, mental health service providers, housing providers, or for other rehabilitative programs ordered by the court for misdemeanor or infraction defendants whose cases are processed through the county's homeless court, mental health court, or hybrid collaborative court.
- Housing vouchers.
- Salary and related costs for providing medication-assisted treatment for misdemeanor defendants whose cases are processed through the county's homeless court, mental health court, or hybrid collaborative court.
- Funding to increase capacity for community-based, medication-assisted treatment and substance use disorder treatment services for misdemeanor or infraction defendants whose cases are processed through the county's homeless court, mental health court, or hybrid collaborative court, or to improve the care coordination and connections to medication-assisted treatment services upon placement in the program. Activities may include, but are not limited to, capital expenditures or operating costs to establish new

reentry centers or treatment programs, expansion of existing community-based, medication-assisted treatment services to better meet the needs of participating defendants, and other strategies to ensure timely and appropriate access to medication-assisted treatment upon release from jail or placement in the program.

This bill requires counties receiving funds to operate the homeless court, mental health court, or hybrid collaborative court for defendants receiving services pursuant to this program on a deferred entry of judgment or diversion basis, or both. Provides that nothing in this section shall preclude a county from operating a homeless court, mental health court, or a hybrid collaborative court on a nondiversion, or a nondeferred entry of judgment basis for defendants who are ineligible or are found by the court to be unsuitable for diversion or deferred entry of judgment.

This bill provides that funds received by the county only be expended to provide the enumerated services to eligible misdemeanor or infraction defendants who qualify for services and who are placed on diversion or on deferred entry of judgment by the court, except for incidental expenditures, as specified.

This bill requires counties receiving funding to require collaboration between the court and county social service agencies to provide services for defendants participating in the program.

This bill prohibits grant funds from being used to supplant existing resources provided by the county probation department or by county social services.

This bill requires counties that receive grants to collect and maintain data pertaining to the effectiveness of the program, as indicated by the board in the request for proposals, including data on the rate of recidivism for criminal defendants who participate in the deferred entry of judgment or diversion program ordered by the court.

This bill provides that information relating to the rate of recidivism that is collected and maintained includes all of the following, as it relates to defendants charged or convicted of a misdemeanor or infraction and placed on diversion or deferred entry of judgment and receive services funded:

- The number and percentage who were sentenced to jail or prison within three years after being sentenced or placed on diversion, and were provided services funded pursuant to this article.
- The number and percentage who were convicted of a misdemeanor or a felony within three years after being sentenced or placed on diversion, after having been provided with services that funded pursuant to this article.
- The number and percentage who were arrested for a crime or had their parole, probation, mandatory supervision, or postrelease community supervision revoked within three years after being sentenced or placed on diversion, and were provided services funded pursuant to this article.

This bill requires a county that receives a grant to include recidivism data for persons placed in the program less than three years prior to any reporting period established by the board.

This bill provides that a county that receives a grant may use state summary criminal history information or local summary criminal history information to collect data as required by the board.

This bill provides that the board may establish a deadline by which counties that receive grants pursuant to this article are required to submit data collected and maintained to the board to enable the board to comply with its own reporting requirement.

This bill provides that the board may use up to 5 percent of the funds appropriated for the program each year for the costs of administering the program, including, without limitation, the employment of personnel and evaluation of activities supported by the grant funding.

This bill defines “mental disorder” to mean that the defendant suffers from a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia. Requires evidence of the defendant’s mental disorder to be provided by the defense and to include a recent diagnosis by a qualified mental health expert. Allows the qualified mental health expert to rely on an examination of the defendant, the defendant’s medical records, arrest reports, or any other relevant evidence.

This bill requires the board, on or before July 1, 2026, to compile a report describing the activities funded, and the success of those activities in reducing recidivism by defendants participating in a program of diversion or deferred entry of judgment who receive services provided pursuant to this program. Requires the report to be submitted to the Legislature pursuant to Section 9795 of the Government Code.

This bill provides that this program is operative only to the extent that funding is provided, by express reference, in the annual Budget Act or another statute for the purposes of this article.

This bill includes a sunset date of January 1, 2027, and specifies that as of that date, the program is repealed.

This bill establishes The Transitioning Home Grant Program to be administered by BSCC.

This bill requires the board to award grants, on a competitive basis, to county sheriffs or jail administrators. Requires the board to establish minimum standards, funding schedules, and procedures for awarding grants.

This bill provides that Transitioning Home Grant Program funds may be used by recipient sheriffs or jail administrators for any one or more of the following purposes:

- Salaries and related costs for jail personnel to evaluate whether inmates released from the jail are, or upon release from custody, will be, homeless.
- Housing navigation services to assist inmates released from jail in locating housing.
- Housing vouchers.
- Transportation for inmates who would otherwise be homeless upon release without transportation to that housing.
- Salaries and related costs to provide reentry planning for inmates upon release from jail.

This bill prohibits funds provided from being used to supplant existing resources provided by the sheriff, jail administrator, county probation department, or county social services department.

This bill requires sheriffs or jail administrators who receive grants to collect and maintain data pertaining to the use of funds received.

This bill provides that the board may use up to 5 percent of the funds appropriated for the program each year for the costs of administering the program, including, without limitation, the employment of personnel and evaluation of activities supported by the grant funding.

This bill requires the board, on or before July 1, 2026, to compile a report describing the activities funded. Requires the report to be submitted to the Legislature pursuant to Section 9795 of the Government Code.

This bill provides that this program is operative only to the extent that funding is provided, by express reference, in the annual Budget Act or another statute for the purposes of this article.

This bill includes a sunset date of January 1, 2027, and as of that date, the program is repealed.

COMMENTS

1. Need For This Bill

According to the author:

California is in the middle of a statewide mental health crisis. Nearly 1 in 6 California adults has a mental health need, and 1 in 20 suffers from a serious mental illness that makes it difficult to carry out major life activities. These numbers are even more severe when we look at the state's homeless populations, with 78% struggling with mental illness, substance use disorder, and/or physical disability.

In addition, growing numbers of inmates are waiting for state hospital beds, sometimes for months at a time. In the past five years, the number of California inmates deemed incompetent to stand trial and ordered sent to state hospitals increased 60 percent. A few decades ago, fewer than half of state hospital patients came from the criminal justice system. Today, more than 90 percent do. When people in psychiatric crisis land in emergency rooms and jails, it's frequently because they can't get treatment in the community—even when they ask for it.

Many California counties have begun turning to mental health and homeless courts as a means of addressing the root cause of these issues. These programs allow for the individuals with mental illness and homeless individuals to get the resources that they need in order to turn their lives around. These courts also work to ease prison and jail crowding by getting people into treatment instead of custody, thus reducing the chances of recidivism due to untreated mental illness. Many California counties have "collaborative" courts to address the needs of, and improve the outcomes for, specialized populations of criminal offenders; this includes 44 counties with mental health courts for adult offenders and 13 counties with homeless courts. However, these courts are often underfunded and have insufficient programming options for participating defendants.

One example of this was recently featured in the Sacramento Bee: the story of Shannie Phillips. Phillips was arrested a little more than two years ago for second-degree burglary after breaking into an unlocked shed and using the owner's kitchen and barbecue to cook for herself. She was homeless, had been up for days, was in the middle of a schizophrenic episode exacerbated by her drug addiction, and thought the house was her own. This was her second strike, which carried a mandatory sentence of three years in prison.

One year and 363 days later, Phillips stood once more in a Sacramento courtroom, but this time, the mood was very different. It was her graduation day. As a result of Sacramento's innovative mental health courts, she had completed her program with distinction in just 11 months and is now working as a drug and alcohol counselor for WellSpace in Sacramento.

This is just one example out of many of an individual who has had life changing results thanks to an innovative mental health court diversion program.

2. Background

Mental Health Courts

Mental health courts are a type of collaborative court that serve as an alternative to the traditional court system and provide specific services and treatment to defendants dealing with mental illness. Although each mental health court has different participation requirements and services available to participants, they share the same goals of supporting participants in their successful return to society, reducing recidivism, increasing public safety, and improving the quality of life of participants. The California Courts' website describes how mental health courts in the state generally work:

- Mental health courts only accept people with demonstrable mental illnesses that can be connected to the individual's illegal behavior.
 - Participation in a mental health court is voluntary and the defendant must consent to involvement in the program.
 - Screening and referral to a mental health court should occur as soon as possible after arrest to insure early intervention.
 - Screening is also used to determine whether a mental health court can provide appropriate resources and support to the individual.
 - Mental health courts use a structure of case management based in intensive supervision/monitoring and individual accountability.
 - Case management is supervised by a team of professionals; teams are typically comprised of members of the justice system, mental health providers, and other support systems.
 - The judge oversees the treatment and supervision process, and facilitates collaboration among team members.
- (<<https://www.courts.ca.gov/5982.htm>>)

While the effectiveness of mental health courts continues to be evaluated, research indicates that mental health court participants are less likely to be arrested, more likely to use treatment services, and spent fewer days in jail compared to non-participants. (*Id.*)

Homeless Courts

Homeless courts are special court sessions held in a local shelter or other community site designed for homeless individuals to resolve outstanding misdemeanor criminal warrants, including many “quality-of-life” infractions such as disorderly conduct, public drunkenness, and sleeping on a sidewalk. The Judicial Council’s 2020 *Homeless and Community Court Blueprint* describes how homeless courts operate:

[Homeless courts] collaboratively work with human services agencies as equal partners to identify and assist homeless individuals at shelters and within the community. The [homeless court program] recognizes participant accomplishments in program activities to resolve their cases and remove obstacles from their reintegration into the community. Participants show documentation of their efforts to reclaim their lives, such as proof of participation in classes on life skills, counseling, substance abuse and relapse prevention, and medical and mental health treatment. Providing community outreach and assistance to homeless individuals with outstanding court cases is a primary focus because these types of cases tend to escalate when homeless defendants fail to appear in court. A failure to appear may result in the issuance of an arrest warrant, presenting a new obstacle or additional sanction that prevents homeless defendants from obtaining housing and other social welfare assistance. Research on homeless persons also indicates that incarceration and legal fines exacerbate their challenges to access services, reintegrate into the community, and extricate themselves from the criminal justice system.

[Homeless courts] generally follow therapeutic justice principles, in which the judicial approach is to address the offender’s behavior as a problem requiring nontraditional sanctions and/or social services in addition to traditional sanctions. (Judicial Council of California, *Homeless and Community Court Blueprint*, January 2020, p. 4 < <https://www.courts.ca.gov/documents/homeless-community-court-blueprint.pdf>>.)

The report also outlines the key principles of homeless courts:

- Prosecutors, defense counsel and the court should agree on which offenses may be resolved in the Homeless Court Program, and approve the criteria for individual participation, recognizing that defendant participation in Homeless Court Programs shall be voluntary.
- Community-based service providers should establish criteria for individual participation in the Homeless Court Program and screen individuals pursuant to these criteria.
- The Homeless Court Program shall not require defendants to waive any protections afforded by due process of law.
- All Homeless Court Program participants shall have time for meaningful review of the cases and issues prior to disposition.
- The Homeless Court Program process and any disposition therein should recognize homeless participants’ voluntary efforts to improve their lives and move from the streets toward self-sufficiency, including participation in community-based treatment or services.
- Participation in community-based treatment or services shall replace traditional sanctions such as fines, public work service and custody.

- Defendants who have completed appropriate treatment or services prior to appearing before the Homeless Court shall have minor charges dismissed, and, where appropriate, may have more serious misdemeanor charges before the court reduced or dismissed. Where charges are dismissed, public access to the record should be limited. (*Id.* at pp. 4-5)

3. Effect of This Bill

This bill creates two new grant programs that would be administered by the BSCC.

Homeless and Mental Health Court Grant Program

The Homeless and Mental Health Court Grant Program would award grants on a competitive basis to counties with an existing mental health court, homeless court, or hybrid as well as counties committed to establishing one of these types of courts. The bill specifies that the county must operate a mental health, homeless, or hybrid collaborative court for defendants receiving services pursuant to the grant program on a deferred entry of judgment or diversion basis, or both. The bill explicitly allows for grant money to be used for one or more of the following purposes:

- Salaries and related costs for county personnel to provide specified services, including mental health evaluations, housing navigation services, drug treatment referrals, or other risk and needs evaluation for criminal defendants charged with a misdemeanor or infraction offense, or who are convicted of a misdemeanor or infraction offense, and are homeless, at risk of homelessness upon release from jail, or who suffer from a mental disorder that was a significant factor in the commission of the charged misdemeanor or infraction offense.
- Establishment or expansion of, a mental health, homeless, or hybrid collaborative court, including any necessary training, salaries for support personnel, including probation department personnel, court facility expansion or renovation, or the expansion or renovation of treatment or evaluation space.
- Funding for services provided pursuant to contracts between a county's probation department and drug treatment providers, mental health service providers, housing providers, or for other rehabilitative programs ordered by the court for defendants whose cases are processed through the county's homeless, mental health, or hybrid collaborative court.
- Housing vouchers.
- Salary and related costs for providing medication-assisted treatment (MAT) for misdemeanor defendants whose cases are processed through the county's homeless, mental health, or hybrid collaborative court.
- Funding to increase capacity for community-based MAT and substance use disorder treatment services for misdemeanor or infraction defendants whose cases are processed through the county's homeless, mental health, or hybrid collaborative court, or to improve the care coordination and connections to medication-assisted treatment services upon placement in the program, including capital expenditures or operating costs to establish new reentry centers or treatment programs, expansion of existing community-based, medication-assisted treatment services to better meet the needs of participating defendants, and other strategies to ensure timely and appropriate access to medication-assisted treatment upon release from jail or placement in the program.

This bill requires counties receiving grants to collect specified data, including data on the rate of recidivism of program participants, and to submit that data to the BSCC. This bill requires the BSCC to compile a report regarding the recipient counties' programs and to submit the report to the Legislature on or before July 1, 2026. Finally, the grant program sunsets on January 1, 2027.

Committee members may wish to consider whether the bill should include a maximum percentage of the total grant award that a grant recipient may use on salaries of county personnel.

Transitioning Home Grant Program

The Transitioning Home Grant Program would award grants on a competitive basis to county sheriffs or jail administrators to be used for any one or more of the following purposes:

- Salaries and related costs for jail personnel to evaluate whether inmates released from the jail are, or upon release from custody, will be, homeless.
- Housing navigation services to assist inmates released from jail in locating housing.
- Housing vouchers.
- Transportation for inmates who would otherwise be homeless upon release without transportation to that housing.
- Salaries and related costs to provide reentry planning for inmates upon release from jail.

This bill requires grant recipients to collect data related to the use of program funds, including data on the rate of recidivism of program participants. This bill requires the BSCC to compile a report regarding the recipient counties' programs and to submit the report to the Legislature on or before July 1, 2026. Finally, the grant program sunsets on January 1, 2027.

Committee members may wish to consider the following:

- Should the bill include a maximum percentage of the total grant award that a grant recipient may use on salaries of jail personnel?
- Should housing vouchers, housing navigation services, or reentry planning be included in the purposes for which grant money may be used? The sheriff's department may not be the government agency that is best suited to identify housing needs, provide referrals for housing services, or provide reentry planning. Alternatively, the bill could require the sheriff or jail administrator to collaborate with the appropriate government entities that currently specialize in providing these services.
- Should the data collection requirement specify the kind of data or information that grant recipients should collect? Unlike the provisions of the bill pertaining to the Homeless and Mental Health Court Grant Program, the data collection provision for this grant program does not clearly outline the types of data that should be collected.
- Should the bill be amended to require grant recipients to provide the collected data to the BSCC as required in the provisions of the bill pertaining to the Homeless and Mental Health Court Grant Program?

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