

AB 1810

Implementation

Behavioral Health Education Series
Episode One



JUDICIAL COUNCIL OF CALIFORNIA

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Learning Goals



- Basic understanding of new mental health diversion law



- Impact of recent amendments and case law



- Framework and models for implementing mental health diversion



Reasons for AB 1810

- Bed space crisis at Department of State Hospitals (DSH)
 - Increase in incompetence to stand trial (IST) filings
 - Increasing waitlist for DSH placements
 - Connect people to local mental health treatments



Reasons for AB 1810

- A growing crisis/
disproportionate representation
 - 4% of the general population have a serious mental health D/O
 - 20% of inmates in CA jails on psychiatric medications
 - 30% of prisoners in CDCR in mental health system



Purpose of Diversion

Penal Code § 1001.35:

- ❑ Increased diversion of individuals with mental disorders . . . while protecting public safety.
- ❑ Allowing local discretion and flexibility for counties in the development and implementation of diversion . . .
- ❑ Providing diversion that meets the unique mental health treatment and support needs of individuals with mental disorders.



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The Basics of AB 1810

- ✓ Creates Penal Code §§ 1001.35 & 1001.36
The Diversion Statutes
- ✓ Amends Penal Code §§ 1370 & 1370.01
Incompetent to Stand Trial (IST) Statutes
- ✓ Adds Welfare & Institutions Code § 4361
DSH Diversion funding



Mental Health Diversion Eligibility Requirements

1. Diagnosed DSM-5 disorder
2. Disorder played significant role in charged offense (wording change 1/1/19)
3. Disorder would respond to treatment
4. Waives speedy trial rights & consents to diversion (unless IST)
5. Agrees to comply with treatment
6. No unreasonable risk of danger if treated in community



Mental Health Diversion Eligibility Requirements

- Set minimum standards which empower the judge to grant diversion in his/her discretion
- Does not create an entitlement or right to diversion for defendant
- Judge then needs to approve treatment program



SB 215 Amends Penal Code 1001.36 effective 1/1/19

- List of ineligible offenses
- Defense makes prima facie showing eligible & suitable
- Judge can deny if no prima facie showing
- Judge can order restitution

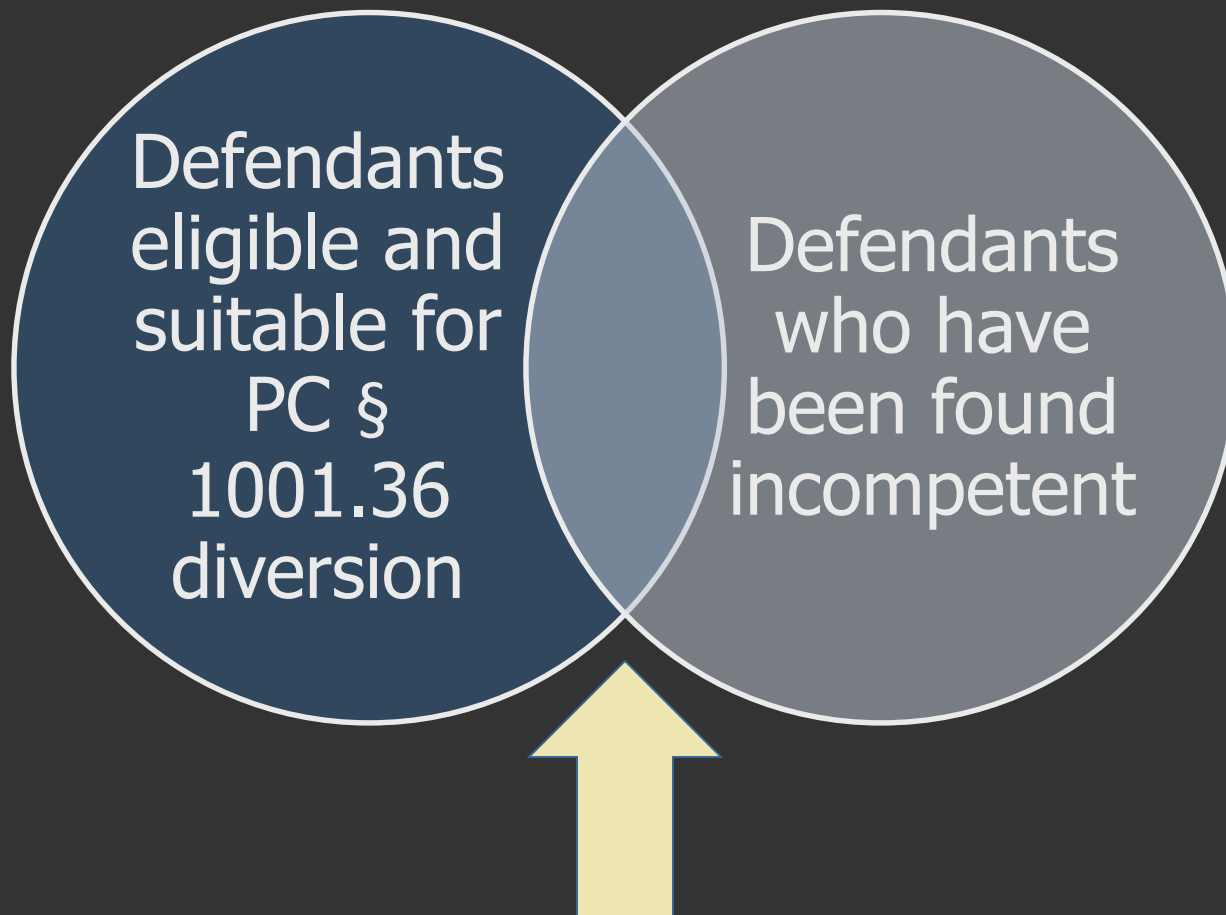


People v. Frahs

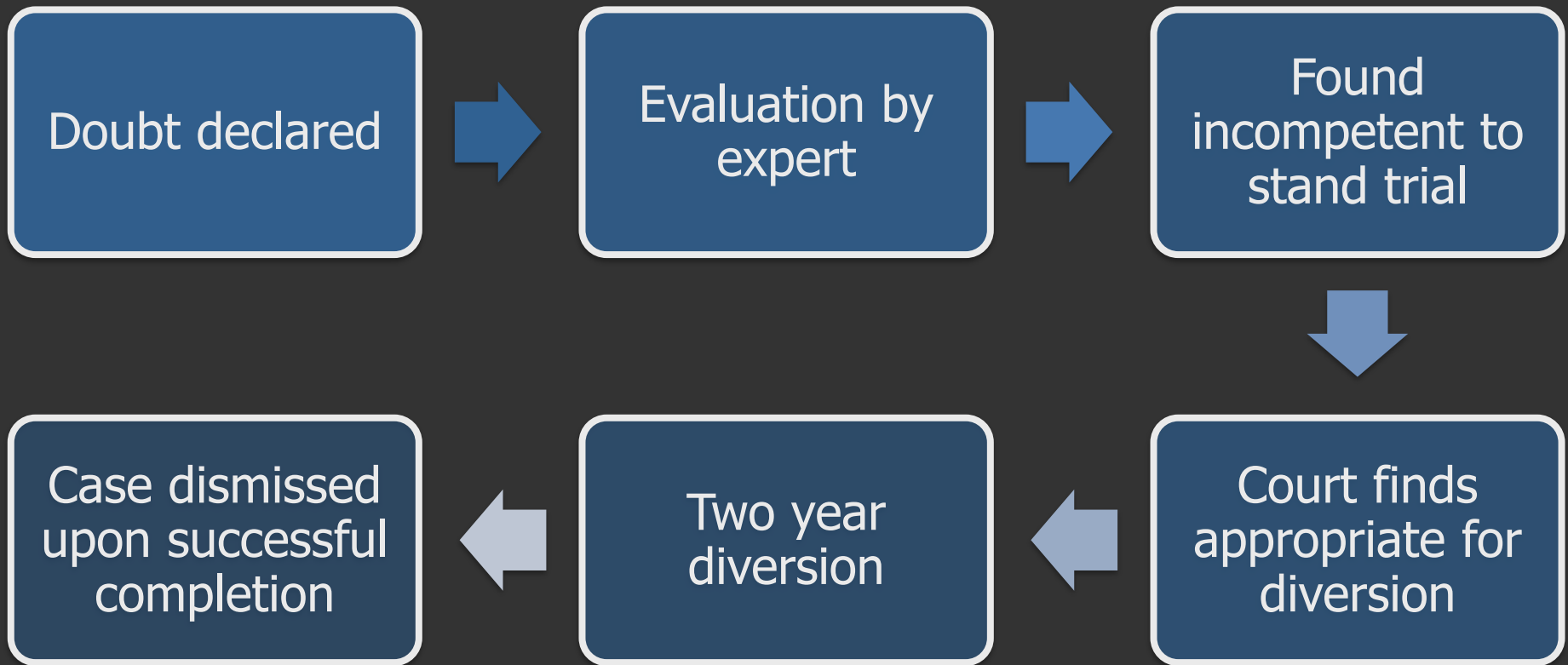
- Mr. Frahs presented evidence of his mental disorder at trial
- Jury found him guilty
- Sentenced to prison
- AB 1810 passed when pending appeal
- Conditionally reversed to allow consideration of diversion



Diversion for Incompetent Defendants



Diversion for Incompetent Defendants



DSH Diversion for Incompetent Defendants



A vertical strip on the left side of the slide shows a stack of US dollar bills, including a \$100 bill and a \$20 bill. The text "AMERICA" and "WASHINGTON, D.C." are visible on the bills.

DSH Diversion funding

- \$100 million
- IST felony population & 3 diagnoses
- DSH contracts with counties
 - 20% match by larger counties
 - 10% match by smaller counties
- Round 1 - \$91 million, targeting 15 counties
- Round 2 - \$8.5 million, all counties
- Christina Edens DSH available





Start small

Stakeholder conversations





What is happening in the jail?

- Mental health screening
- Referrals to services
- Help enrolling in Medi-Cal





**Who acts as the gate
keeper for diversion?
Who monitors
diversion?**

- Individual calendar judges?
- One centralized judge?
- Judge with mental health expertise?
- Mental health court judge?

Who provides treatment for participants?

- County providers
- Community providers
- Veterans Affairs
- Private insurance



What kind of treatment?

- In-patient psychiatric beds
- Residential facilities
- Out-patient
 - Partial hospitalization
 - Full service partnerships
 - Individual and group therapy
 - Medication and med management
- Substance Abuse Treatment (if co-occurring disorder)



Who supervises people in diversion program?



- Court (and which judge)
- Pretrial Services
- Probation
- Case managers



Impact on existing collaborative courts

- Separate or integrated?
- Changing current mental health court population?
- How do you decide which track?
- Using other collaborative courts?



Case Study: Sacramento



Judge Brown

- Starting with misdemeanors
- Concentrating diversion cases in 2 misdemeanor home courts
- Supervision through periodic reviews in the court
- More serious cases stay in mental health court to allow probation supervision



Case Study: Santa Clara



Judge Manley

- IST Diversion program
- Centralized 1368 court
- Once deemed incompetent, DA and PD meet & decide if suitable for diversion
- 1368 court judge reviews recommendation
- If granted diversion, sent to mental health court judge
- If successful for diversion period, case dismissed



Data collection

- Data required for DSH diversion
- Are you tracking data and what data are you tracking?
- How are you preventing demographic disparities in exercise of discretion?



Questions?



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Resources:

- Webinar on JCC YouTube Channel by mid-November
- Memo by Judge Couzens & materials on Judicial Resources Network
- Listserv Arley.Lindberg@jud.ca.gov
- Criminal Justice Services Amy.Kimpel@jud.ca.gov(PJs & CEOs only)
- CrimJusticeOffice@jud.ca.gov



Upcoming events:

12/13 webinar on Serious Mental Illness with Dr. Loren Roth of UCSF Department of Psychiatry. Dr. Roth serves as the medical director of San Francisco's jail behavioral health services



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