

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 513

VERSION: INTRODUCED FEBRUARY 14, 2023

AUTHOR: WIENER

SPONSOR:

- **ANTI-RECIDIVISM COALITION**
- **MENTAL HEALTH OF AMERICA, CALIFORNIA**

RECOMMENDED POSITION: NONE

SUBJECT: INCARCERATED PERSONS: MENTAL HEALTH

Summary: This bill seeks to provide regular mental health therapy to all incarcerated inmates in California, not just those who are classified as severely mentally ill, with a goal of rehabilitation and reduced recidivism.

Existing Law:

- 1) Provides that the following medically or psychologically necessary services may be provided by the Department of Corrections to inmates (Penal Code (PC) §5058.5):
 - Prescreening of mental disorders;
 - Determination of mental competency to participate in classification hearings;
 - Evaluation of parolees during temporary detention; and
 - Determining whether mental health treatment should be a condition of parole.

This Bill:

- 1) Provides that the Department of Corrections and Rehabilitation shall conduct mental health treatment in a manner that accomplishes all of the following (PC §5068.1):
 - a. Provides regular and consistent mental health therapy to an inmate seeking it to the greatest extent possible, by increasing virtual or in-person therapy and contracting with providers outside the department.
 - b. Offers mental health therapy to the greatest extent possible even if the prison is restricting in-person therapy for reasons such as security or medical concerns.

- c. Ensures an inmate is provided an introductory mental health therapy appointment within two weeks of requesting care.
 - d. Ensures mental health treatment is accessible to all inmates regardless of security level, sentence length, or mental health classification.
 - e. Provides a private space for inmate mental health therapy, to the greatest extent possible.
- 2) Provides in the intent language of the bill that mental health therapy refers to 50-minute psychotherapy sessions offered a minimum of two times per month provided by a psychiatrist, psychologist, licensed social worker, or licensed therapist.

Comments:

- 1) **Author's Intent.** The author is seeking to provide access to mental health care for all incarcerated persons regardless of security level, sentence, or mental health classification. They state that access to therapy will help rehabilitate incarcerated persons and reduce recidivism.

The author states the following in their fact sheet for the bill:

“There are approximately 97,000 people incarcerated in California’s prisons. The California Department of Corrections and Rehabilitation (CDCR) currently provides therapy to only the most severe cases of mental illness – those assigned to one of four classifications:

1. Core Clinical Case Management System (Triple-CMS): the lowest classification level. Patients are supposed to receive therapy at least once every 90 days.

2. Enhanced Outpatient Program (EOP): the highest level of outpatient mental care. Patients whose symptoms impact their ability to function and live in separate housing.

3. Mental Health Crisis Bed (MHCB): patients who are in acute psychiatric distress and typically stay for less than 10 days when deemed a danger to themselves or others.

4. Psychiatric Inpatient Programs (PIP): patients who need acute or immediate care and are often experiencing suicidal ideation.

Currently, around 30,000 incarcerated people fall into one of these classifications. Though they technically have access to therapy, their sessions are often as short as 15 minutes, and they are often cycled through different therapists sporadically. These constraints make building a

rapport with their therapist and establishing consistency - which are key to the success of any mental health treatment - impossible. The other 67,000 incarcerated Californians who are not classified have no access to any mental health care at all."

- 3) Key Provisions not in Statute.** The bill provides non-codified intent language that defines mental health therapy as 50-minute psychotherapy sessions offered a minimum of two times per month provided by a psychiatrist, psychologist, licensed social worker, or licensed therapist.

For this definition to have its intended effect, it likely should be included in the actual statute that the bill is adding. Additionally, specific license types, rather than "licensed therapist" should be referenced.

Support and Opposition.

Support

- Anti-Recidivism Coalition (Sponsor)
- Mental Health of America, California (Sponsor)
- California Youth Empowerment
- California Association of Mental Health Peer Run Organizations
- California Nurses Association
- Californians for Safety and Justice
- Communities United for Restorative Youth Justice
- Disability Rights California
- Initiate Justice
- Initiate Justice Action
- Prosecutors Alliance California
- Smart Justice California

Oppose

- None at this time.

History

04/10/23 April 10 hearing: Placed on APPR suspense file.
04/03/23 Set for hearing April 10.
03/29/23 From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (March 28). Re-referred to Com. on APPR.
03/06/23 Set for hearing March 28.
02/22/23 Referred to Com. on PUB S.
02/15/23 From printer. May be acted upon on or after March 17.
02/14/23 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Introduced by Senator Wiener
(Coauthor: Senator Smallwood-Cuevas)
(Coauthor: Assembly Member Jackson)

February 14, 2023

An act to add Section 5068.1 to the Penal Code, relating to prisons.

legislative counsel's digest

SB 513, as introduced, Wiener. Incarcerated persons: mental health.

Existing law provides that the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation. Existing law requires the secretary to provide facilities and licensed professional personnel for a psychiatric and diagnostic clinic and any such branches thereof as may be required at one or more of the state prisons or institutions under the jurisdiction of the department.

This bill would require the department to conduct mental health treatment for state prison inmates in a manner to accomplish various goals, including providing, to the greatest extent possible, regular and consistent mental health therapy to inmates who seek it, and ensuring that an inmate is provided an introductory mental health therapy appointment within 2 weeks of the inmate requesting care. The bill would also make Legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Rehabilitation is an essential function of the Department of
4 Corrections and Rehabilitation.

5 (b) The primary function of the department's statewide mental
6 health program is to ensure state prison inmates have ready access
7 to mental health services based on their need.

8 (c) Mental health therapy contributes to personal growth,
9 reflection, and preparation for safe and successful reentry post
10 incarceration and helps foster a safer environment for staff and
11 state prison inmates.

12 (d) To that end, access to consistent mental health therapy should
13 be available to all persons incarcerated in state prison, whatever
14 their security level or length of sentence, without having to be
15 publicly classified as having a serious mental disorder.

16 (e) The development of telehealth using tablets and other
17 technologies will provide for a greater variety of options for
18 incarcerated persons to meet with therapists.

19 (f) Mental health therapy refers to 50-minute psychotherapy
20 sessions offered at a minimum of two times per month provided
21 by a psychiatrist, psychologist, licensed social worker, or licensed
22 therapist.

23 SEC. 2. Section 5068.1 is added to the Penal Code, to read:

24 5068.1. In order to foster the growth, mental and emotional
25 wellness, and rehabilitation of state prison inmates, the Department
26 of Corrections and Rehabilitation shall conduct mental health
27 treatment in a manner that accomplishes all of the following goals:

28 (a) Provides, to the greatest extent possible, regular and
29 consistent mental health therapy to an inmate who seeks it by,
30 among other things, increasing virtual or in-person therapy
31 opportunities and contracting with mental health providers outside
32 of the department.

33 (b) Offers mental health therapy to the greatest extent possible,
34 even if the institution, facility, or section of the state prison is
35 restricting in-person therapy for reasons, including, but not limited
36 to, a security or medical concern.

37 (c) Ensures that an inmate is provided an introductory mental
38 health therapy appointment within two weeks of requesting care.

- 1 (d) Is accessible to all inmates regardless of security level,
- 2 sentence length, or mental health classification.
- 3 (e) Provides, to the greatest extent possible, a private space for
- 4 an inmate to receive mental health therapy.

O