



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

PALOMA AGUIRRE
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

MONICA MONTGOMERY STEPPE
Fourth District

JIM DESMOND
Fifth District

DATE: May 19, 2026

09

TO: Board of Supervisors

SUBJECT

AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

OVERVIEW

In recent years, the State of California's (State) legislature has implemented new laws, penalties, and funding in response to a significant increase in the number of individuals committed to the State hospital system after being found Incompetent to Stand Trial (IST) as part of a felony criminal case. An individual deemed IST by the court is unable to understand the charges against them and assist counsel in their defense and may receive treatment through the California Department of State Hospitals (DSH) to restore competency and support their return to court. As the number of justice-involved individuals with serious mental illness found IST has continued to rise, demand for State hospital beds has outpaced available capacity, resulting in prolonged waitlists and admission delays.

In response, the State convened a statewide IST Solutions Workgroup (Workgroup) in 2021 to identify strategies to address growing IST commitments and improve timely access to treatment. The Workgroup recommended investments in local diversion, competency restoration, and community-based behavioral health services to intervene earlier and reduce justice involvement among individuals with serious mental illness. Building on these recommendations, Senate Bill 184 established an IST growth cap and penalty structure to incentivize counties to reduce reliance on State hospital commitments, along with a process through which counties can request penalty funds back for reinvestment in approved local programs and services that reduce IST commitments.

In 2023, DSH made funding available to counties to locally serve this population, including funding for local diversion and community-based restoration programming as well as infrastructure. The funding is intended to reduce the number of IST findings through upstream

SUBJECT: AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

prevention before custody or diversion and to reduce the number of individuals with serious mental illness arrested and incarcerated for behavior connected to their illness. In January 2024, the County of San Diego (County) Behavioral Health Services submitted letters of interest to DSH for two related grant opportunities. On January 28, 2025 (20), the San Diego County Board of Supervisors (Board) approved initial actions to expand local IST treatment capacity, laying the groundwork for additional investments and grant opportunities now before the County. However, subsequent to that Board action, DSH provided clarification that the funds must be directly linked to the IST Program Grant, focusing on community-based Settings. Thus, today's action supersedes the January 28, 2025 (20) Board action regarding IST Infrastructure Grant Funds.

Today's item requests the Board authorize acceptance of up to \$46,309,500 in one-time IST Diversion and Community-Based Restoration funds from DSH to enhance and build local treatment options for individuals with serious mental illness at risk of being found IST, or those found IST as part of a felony case. Related Board approvals requested today include adopting a Resolution as required to execute the IST Infrastructure Grant and authorizing the Director, Department of Purchasing and Contracting to issue a competitive procurement for the IST Diversion and Community-Based Restoration program and infrastructure. Today's item also requests the Board authorize acceptance of a total of up to \$6,739,244 in one-time Growth Cap penalty funds from DSH.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Authorize the acceptance of the following grant funds, and authorize the Behavioral Health Services Director to execute all required documents, upon receipt, including any annual extensions, amendments, or revisions that do not materially impact or alter the services or funding level:
 - a. \$41,622,000 in Incompetent to Stand Trial Diversion and Community-Based Restoration Program grant funds from the Department of State Hospitals for the period of July 1, 2026, to June 30, 2031, for programming and treatment and justice system infrastructure efforts to serve the IST population; and
 - b. \$4,687,500 in Incompetent to Stand Trial Diversion and Community-Based Restoration Infrastructure Project grant funds from the Department of State Hospitals for the period of July 1, 2026 to June 30, 2028 for capital infrastructure to serve people who have been charged with a felony, deemed incompetent to stand trial, and who are enrolled in the Incompetent to Stand Trial Diversion and Community-Based Restoration Program.
2. Adopt a Resolution entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF COUNTY OF SAN DIEGO AUTHORIZING COUNTY PROPOSAL TO PARTICIPATE IN THE INCOMPETENT TO STAND TRIAL DIVERSION AND COMMUNITY-

SUBJECT: AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

BASED RESTORATION INFRASTRUCTURE PROGRAM to authorize the BHS Director, to execute the IST Infrastructure Grant, and all grant related documents.

3. In accordance with Section 401, Article XXIII of the County Administrative Code, authorize the Director, Department of Purchasing and Contracting, to issue a competitive procurement for local diversion, community-based restoration and infrastructure programming, and upon successful negotiations and determination of a fair and reasonable price, award contracts for a term of up to one year, with four option years and up to an additional six months if needed, and to amend the contracts as needed to reflect changes to services and funding.
4. Authorize the acceptance of returned Growth Cap penalty funds from the California Department of State Hospitals (DSH), totaling up to \$6,739,244 for Fiscal Years (FY) 2026-27 and FY 2027-28 for diversion, competency restoration and community-based behavioral health treatment; and authorize the Chief Administrative Officer, or designee, to execute all required documents necessary to receive funds from the Mental Health Diversion Fund and enter into or amend agreements consistent with the DSH-approved Growth Cap Expenditure Plan.

EQUITY IMPACT STATEMENT

Individuals who are justice-involved frequently experience barriers that impact their ability to successfully navigate systems of care and the justice system. Nationwide, systemic issues such as poverty, lack of education, inadequate access to healthcare, unsafe neighborhoods, and insufficient social support contribute to disproportionately high rates of crime, arrests, and incarceration among Black, Indigenous, and People of Color, as well as individuals of a lower socioeconomic status who are struggling with mental health or substance use challenges or experiencing homelessness. It is anticipated that the funding associated with today’s action will have a positive impact on these populations by enhancing access to community-based mental health and diversion programming.

SUSTAINABILITY IMPACT STATEMENT

Today’s item supports the County of San Diego’s (County) Sustainability Goal #2 to provide just and equitable access to County services by addressing barriers that disproportionately affect justice-involved individuals, particularly Black, Indigenous, and People of Color populations and those experiencing homelessness, mental health, or substance use conditions.

FISCAL IMPACT

Recommendation 1a: Incompetent to Stand Trial Diversion and Community-Based Restoration Program grant

Funds for this request are not included in the FY 2026-28 CAO Recommended Operational Plan in Behavioral Health Services. If approved, this request is anticipated to result in one-time

SUBJECT: AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

estimated costs and revenue of \$8,324,400 in FY 2026-27 and FY 2027-28 for a total of \$41,622,000 through FY 2030-31. The funding source is IST Program Grant from the California Department of State Hospitals. There will be no change in net General Fund cost and no additional staff years for the current fiscal year.

Recommendation 1b: Incompetent to Stand Trial Diversion and Community-Based Restoration Infrastructure Project grant

Funds for this request are partially included in the FY 2026-28 CAO Recommended Operational Plan in Behavioral Health Services. If approved, this request is anticipated to result in \$2,343,750 in FY 2026-27 and FY 2027-28 for a total of \$4,687,500 for the IST Infrastructure Grant. The funding source is IST Infrastructure Grant from the California Department of State Hospitals. There will be no change in net General Fund cost and no additional staff years for the current fiscal year.

Recommendations 2 and 3: Adopt a Resolution and authorize the Director, Department of Purchasing and Contracting, to issue a Competitive Procurement

These recommendations have no fiscal impact. There will be no change in net General Fund cost and no additional staff years.

Recommendation 4: Authorize the acceptance of returned Growth Cap penalty funds from the Department of State Hospitals (DSH)

Funds for this request are included in the FY 2026-27 CAO Recommended Operational Plan. If approved, this request will result in one-time costs and revenue of \$4,264,394 in FY 2026-2027 in Behavioral Health Services (\$1,830,064), Sheriff's Office (\$587,000), District Attorney's Office (\$708,000), and Office of the Public Defender (\$1,139,330) and \$2,474,850 in FY 2027-28 in Behavioral Health Services (\$1,830,064) and Office of the Public Defender (\$644,786), for a combined total of \$6,739,244. There will be no change in net General Fund cost and no additional staff years for the current fiscal year.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

On April 2, 2026, the Behavioral Health Advisory Board voted to approve the recommendations.

BACKGROUND

California has continued to see a significant increase in individuals charged with a felony offense who are found Incompetent to Stand Trial (IST) and committed to the Department of State Hospitals (DSH) for competency restoration services. A person deemed IST by the court is unable

SUBJECT: AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

to participate in their trial due to their inability to understand the criminal proceedings or assist their counsel in their defense. They may receive clinical and medical services through DSH to support restoration of their competency and enable them to return to court. The focus of treatment for the IST population is restoration of trial competency, not the person's long-term mental health treatment. Once their immediate mental health needs are addressed, they receive information on various aspects of court proceedings, what they are charged with, available pleas, elements of a plea bargain, role of evidence, and constitutional protections. Knowledge of these areas is assessed using a competency assessment instrument. The person's competency to stand trial may be reevaluated at any time, and if the person is deemed competent, a forensic report is sent to the court outlining that the patient is ready to stand trial.

Due to the increasing number of individuals with serious mental illness (SMI) who become justice-involved and deemed IST on felony charges, the State of California (State) has made investments to increase DSH's capacity. However, the growth has continued to outpace available State capacity resulting in waitlists and increased wait times for admission.

In 2021, the State established a statewide IST Solutions Workgroup (Workgroup) in response to a 2015 lawsuit against DSH alleging due process violations related to prolonged wait times for IST defendants' awaiting admission. This Workgroup was comprised of appointed representatives from State agencies, the Judicial Council, local government and criminal justice system representatives, and representatives of IST patients and their family members. The Workgroup identified strategies to address the increasing number of individuals with SMI who become justice-involved and deemed IST on felony charges. These strategies included providing funding to implement local solutions to reduce the number of individuals with SMI prior to arrest and incarceration by addressing behaviors related to their illness before they result in criminal justice involvement. As a result of the Workgroup's efforts, several funding opportunities were made available to California counties through the State.

Subsequently, the 2022 State Budget Act allocated funds to implement solutions, inclusive of early stabilization and care coordination, expansion of community-based treatment and diversion options. The intent is to reduce the number of IST findings through upstream behavioral health prevention efforts, enhanced IST discharge planning and coordination, and implementation of a pilot for independent placement panels. To implement the enhanced services, new and updated statutory language was enacted in budget trailer bill Senate Bill (SB) 184.

Authorize Acceptance of Grant Funds

In January 2024, the County of San Diego (County) submitted letters of interest to DSH for two grant opportunities that will provide diversion and community-based restoration programming, through contracted provider(s), as well as infrastructure funding. Details of these two grant

SUBJECT: AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

opportunities are provided below, and if approved, today's actions request the Board authorize acceptance of a total of \$46,309,500 in one-time grant funding. These grants are designed to reduce felony IST determinations through earlier identification of at-risk individuals, stabilization, improved case handling, and continuity of care. These efforts support more timely access to treatment, reduce pressure on State hospital capacity, and improve outcomes for individuals with serious mental illness.

IST Diversion and Community-Based Restoration Program (CBR) grant (IST Program)

DSH IST diversion programming is focused on diverting individuals found IST into structured community-based treatment with the possibility of charge dismissal upon successful completion of treatment. In January 2026, DSH notified the County of the award allocation of approximately \$41.6 million for both IST Diversion and CBR Program grant to serve up to 50 individuals determined to be felony IST. Funding for both CBR and Diversion can be used for program implementation, wraparound services, justice partner funding, violence risk assessment, and diversion court liaison functions. All funds must be expended by June 30, 2031.

IST Diversion and Community-Based Restoration Infrastructure Project grant (IST Infrastructure)

The IST Infrastructure Grant provides one-time grant funding to counties to increase the State's capacity of residential treatment facilities for people who have been charged with a felony, deemed IST, and who are identified by DSH as eligible for diversion or CBR services. On January 28, 2025 (20), the Board approved the acceptance of \$21.3 million in IST Infrastructure Grant funding for facility renovations at the San Diego County Psychiatric Hospital to serve 221 IST patients. However, subsequent to that Board action, DSH provided clarification that the funds must be directly linked to the IST Program Grant, focusing on community-based settings. Due to this change, DSH also reduced the number of individuals served to be up to 50, hence, leading to a reduction in the County's allocation to be from \$21.3 million to approximately \$4.6 million. Thus, today's action supersedes the January 28, 2025 (20) Board action regarding IST Infrastructure Grant funds. All funds must be expended by June 30, 2028.

In December 2026, the County hosted a Request for Information to gather input from service providers on capabilities, best practices, gaps and services for the IST population. The information obtained will inform a competitive procurement for diversion, community-based restoration and infrastructure programming.

Authorize Acceptance of Growth Cap Penalty Funds

Following the Workgroup's recommendation, State legislators enacted SB 184 to establish an additional accountability mechanism intended to ensure expanded funding supports activities that reduce IST commitments to State hospitals. SB 184 established the IST growth cap and penalty structure to incentivize counties to reduce reliance on State hospital commitments for individuals

SUBJECT: AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

on felony charges, setting each county's baseline as its FY 2021-22 total felony IST determinations.

According to this structure, beginning FY 2022-23, for each annual felony IST determination that exceeds each county's baseline, counties must pay penalty amounts based on DSH's per-individual State hospital treatment rate. DSH reconciles counts by September 30 of each year. Invoices are issued in late May, and payment is due within 90 days. To request penalty funds back, counties must develop and submit a Growth Cap Expenditure Plan to DSH, which outlines the activities and services that will support reduction of local IST determinations. Per DSH policy, counties submit the assessed penalties to the State's Mental Health Diversion Fund and can receive 100% of those funds back upon DSH approval of the Growth Cap Expenditure Plan.

In FY 2022-23 and 2023-24 the County exceeded the allotted baseline of 207 individuals per year by 82 and 75 commitments, respectively. In pursuit of receiving a return of Growth Cap penalty funds, the County submitted a combined Growth Cap Expenditure Plan for FYs 2022-23 and 2023-24 (Combined Plan) on February 27, 2026. The Combined Plan proposed to deploy returned penalty funds across the following two project areas:

- Expansion of justice involved Assertive Community Treatment for an additional 49 at-risk individuals with intensive treatment and housing stabilization.
 - The competitive procurements for local diversion and community-based restoration are the administrative steps required to implement the expansion of justice involved Assertive Community Treatment described in the Expenditure Plan.
- Dedicated funds to cross-agency staffing and coordination to identify, assess, and connect individuals at risk to be determined IST to treatment in the community and support reentry for individuals who return to San Diego County from DSH.

The Combined Plan was reviewed by DSH to ensure proposed activities met "eligible activities" criteria for expenditures, including community crisis intervention services, pre-release services with the goal of preventing IST determination, and reentry services for individuals restored to competency and released to the community. In March 2026, DSH approved the Combined Plan and determined penalty funds totaling \$6,739,244 to be returned to the County. In accordance with the proposed projects, today's action requests the Board authorize competitive procurements for local diversion, community-based restoration, and infrastructure programming, and authorize the acceptance of one-time IST Growth Cap penalty funds.

Today's item requests the Board authorize acceptance of a total of up to \$46,309,500 in one-time grant funding that will enhance and build local treatment options for individuals with serious mental illness at risk of being found IST, or those found IST as part of a felony case. Related Board approvals requested today include adopting a Resolution as required to execute the IST

SUBJECT: AUTHORIZE ACCEPTANCE OF INCOMPETENT TO STAND TRIAL (IST) DIVERSION AND COMMUNITY-BASED RESTORATION PROGRAM AND INFRASTRUCTURE PROJECT GRANT FUNDS; ADOPT A RESOLUTION AUTHORIZING THE COUNTY OF SAN DIEGO PARTICIPATION IN IST INFRASTRUCTURE GRANT; AUTHORIZE COMPETITIVE PROCUREMENT TO ESTABLISH CONTRACTS FOR IST SERVICES; AND AUTHORIZE ACCEPTANCE OF GROWTH CAP PENALTY FUNDS FROM THE DEPARTMENT OF STATE HOSPITALS (DISTRICTS: ALL)

Infrastructure Grant (Attachment A) and authorizing the Director, Department of Purchasing and Contracting to issue a competitive procurement for the IST Diversion and Community-Based Restoration program and infrastructure; and if needed, amend contracts to reflect changes in program, funding or service requirements. Today's item also requests the Board authorize acceptance of \$6,739,244 one-time IST Growth Cap penalty funds from DSH.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support the County of San Diego 2026-2031 Strategic Plan initiatives of Equity (Health), Community (Quality of Life), and Justice (Restorative) as well as the regional *Live Well San Diego* vision, by reducing disparities and disproportionality of individuals by implementing new services that are designed to improve outcomes for persons with serious mental illness who are involved with the criminal justice system

Respectfully submitted,



EBONY N. SHELTON
Chief Administrative Officer

ATTACHMENT(S)

Attachment A - A RESOLUTION OF THE BOARD OF SUPERVISORS OF COUNTY OF SAN DIEGO AUTHORIZING COUNTY PROPOSAL TO AND PARTICIPATION IN THE INCOMPETENT TO STAND TRIAL DIVERSION AND COMMUNITY-BASED RESTORATION INFRASTRUCTURE PROGRAM ("IST")