

Patient Care Coordination Division  
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[www.dsh.ca.gov](http://www.dsh.ca.gov)



DEPARTMENT LETTER: 25-001

DATE: January 28, 2025

TO: PRESIDING JUDGES OF THE SUPERIOR COURTS OF CALIFORNIA  
COURT EXECUTIVE OFFICERS  
ALL COUNTIES' SHERIFFS

SUBJECT: INCOMPETENT TO STAND TRIAL OUT OF CUSTODY INDIVIDUALS  
– NEW PROCESS NOTIFICATION

EXPIRES: UPON NOTIFICATION

## **PURPOSE**

Senate Bill (SB) 159 (Chapter 40, Statutes of 2024) amended Penal Code (PC) 1370 to provide a process for the automatic stay of a defendant's incompetent to stand trial (IST) commitment to the Department of State Hospitals (DSH) and removal from the DSH pending placement list under certain conditions when the individual is out of the sheriff's custody. This is to inform you of these statutory changes and DSH's planned implementation.

## **BACKGROUND**

PC 1370 § (a)(1)(C)(ii)(I) now specifies that when a defendant is found IST on felony charges, the court has ordered them to a DSH facility, and the individual is out of the sheriff's custody, DSH shall notify the sheriff when a bed becomes available and make reasonable attempts to coordinate with the sheriff for delivery of the individual to a DSH facility. If DSH has made reasonable attempts to coordinate admission of an IST defendant and the IST defendant has not been delivered to a DSH facility within 90 days of the date of commitment, the statute requires that DSH inform the court and sheriff in writing. Pursuant to Penal Code § 1370(a)(1)(C)(ii)(II), if the sheriff has not delivered the defendant to a DSH facility within 90 days after DSH's written notice, the commitment to DSH shall be automatically stayed and DSH may remove the defendant from the pending placement list until DSH is notified by the court, in writing, that the defendant is available for transport. When the court has notified DSH that the IST individual is available for admission and transport to a DSH facility, the individual will be placed in accordance with the original commitment date to DSH.

Prior to this statutory change, out of custody IST defendants would remain on DSH's pending placement list despite multiple ongoing attempts to schedule admission to a DSH facility and being unavailable for transport to DSH's treatment programs.

## **UPDATED PROCESS AND IMPLEMENTATION**

As IST individuals are committed to DSH, the DSH Patient Management Unit (PMU) will continue to offer admission to individuals in commitment date order in accordance with California Code of Regulations Title 9 § 4710. If an IST individual is out of the sheriff's custody and not available for admission when the first offer of admission is made, PMU will continue to reach out monthly and in writing to the county sheriff to coordinate admission for the individual within the first 90 days post-commitment. If at 90 days post-commitment to DSH, the IST individual remains out of the sheriff's custody and is still not available to DSH for admission, PMU will send a written notification informing the county sheriff and the superior court pursuant to Penal Code § 1370 (a)(1)(C)(ii)(I). The written notice will state that if the sheriff has not delivered the defendant to a DSH facility within 90 days, the individual's commitment will be automatically stayed and the individual will be removed from the pending placement list unless such time as the court notifies DSH, in writing, that the individual is available for admission.

For any out of custody IST individual committed to DSH at the time of release of this Departmental Letter, DSH will phase in the implementation of this process change in accordance with the plan below:

Out of Custody IST Commitments 1 Year or Older: DSH's PMU will initially focus on IST individuals who have not been delivered to a DSH facility and who have a commitment date that is at least one year old as of the release date of this departmental letter. A notification will be sent to the county sheriff and superior court with the list of individuals who are subject to the provisions of the revised statute and the updated process. Prior to removing these IST individuals from the pending placement list, DSH will continue outreach to county sheriffs to coordinate admission to a DSH facility for an additional 90 days. If these collaborative efforts are unsuccessful, PMU will send a final notification no sooner than 90 days after the date of the initial letter informing the sheriff and the superior court that, pursuant to the statutory changes, the IST individual will be removed from the DSH pending placement list until the court notifies DSH, in writing, that the patient is available for admission.

All Other Out of Custody IST Commitments on Pending List: Beginning on March 1, 2025, PMU will send a notification letter to each county sheriff and superior court for any out of custody IST individual pending placement to DSH for at least 90 days despite efforts by DSH to coordinate an admission. The IST individual will not be removed from DSH's pending placement list for a minimum of 90 days after

sending the initial notification letter to county sheriffs and superior courts. During the minimum 90-day period, PMU will continue the current practice of reaching out, in writing monthly, to each county sheriff to offer a bed and coordinate admission for these IST individuals. If these collaborative efforts are unsuccessful, PMU will send a final notification no sooner than 90 days after the date of the initial letter informing the sheriff and the superior court that, pursuant to the statutory changes, the IST individual will be removed from the DSH pending placement list until the court notifies DSH, in writing, that the patient is available for admission.

DSH appreciates your support as we implement these statutory changes. If you have any questions regarding this new process, please contact Jaci Thomson, Deputy Director, Patient Care Coordination Division at [jaci.thomson@dsh.ca.gov](mailto:jaci.thomson@dsh.ca.gov).

Thank you for your continued partnership with DSH.

Original Signed By



Jaci Thomson  
Deputy Director  
Patient Care Coordination Division  
Department of State Hospitals

cc: All counties' Public Defenders  
All counties' District Attorneys  
Judicial Council  
California State Sheriffs' Association  
California State Association of Counties