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Yolo County District Attorney calls on the legislature to fix the Mental Health Diversion system though the passage of Assembly Bill 46

WOODLAND, CA — The Yolo County District Attorney's Office is joining the California District Attorneys Association in their statewide call for the California Legislature to pass common sense mental health diversion (MHD) legislation, Assembly Bill 46. This legislation is sponsored by the Sacramento County District Attorney's Office and co-sponsored by many district attorneys' Offices across the state, including the Yolo County District Attorney's Office. This bill closes legal loopholes in California's mental health diversion law by restoring judicial discretion and ensuring the program provides treatment while protecting community safety.

Across California, reports have shown tragic cases in which dangerous individuals were granted mental health diversion only to commit violent crimes later - including murder, attempted murder, domestic violence and more. Some Yolo County case examples include:

Antonio Andrade, 36, a transient in the city of West Sacramento, with a very lengthy criminal history. In August of 2023, he was arguing with his girlfriend and, in the process, pulled out a knife and lunged at her, then proceeded to stab himself in the stomach. The judge granted 1001.36 diversion in August of 2024, without a solid treatment plan for him until November 2024. Despite reports that he was engaged with treatment, Probation advised he was already violating terms of the diversion program by wandering around homeless encampments after his curfew. The Court refused to find him in violation. On February 20, 2025, he was remanded into custody, after the Court found that he had violated his terms due to curfew violations and self-admitted meth use, however, the Court also concluded that this was an "insufficient basis to terminate judicial diversion, and that he had some period of success." On March 6, 2025, he was again released on Supervised Own Recognizance to continue his treatment, despite the violations of his diversion. He was to be transported to a rehabilitation center in Oakland, for a minimum of six months, when a bed became available. At yet another termination hearing on April 24, 2025, Probation testified that he had been discharged from the Oakland rehabilitation center twice in the past month. He also failed to return to Probation the sobriety and tracking equipment that he removed from his body in February 2025. Andrade stated that he was being "forced" to go to treatment, that he was done with treatment, and he was done wasting everyone's time. Court finally found him in violation and terminated judicial diversion. He then pled to the charges and received a six-year prison term, though he had over 1300 days of credits. He will be eligible for parole consideration in October 2026.

Montaque Edwards, 29, of Walnut Creek, was involved in a Domestic Violence incident with a gun, against the mother of his child in July of 2022. During the incident he refused to leave and made statements that he was going to kill himself. Officers saw him fleeing the house and they were able to apprehend him about a quarter of a mile away. It was discovered that he was on parole for a prior robbery. He had also absconded from parole. Officers located a firearm in the bushes near where he was caught. It was an unregistered Glock 48 and was loaded with 9 bullets and with a prior felony conviction he was prohibited from owning or possessing a firearm. He was granted 1001.36 Mental Health Diversion in August 2023.His program reviews did not meaningfully address his progress and compliance with treatment and were initially scheduled for every six months. In January of 2025, while enrolled in the diversion program, he was charged with a new case in Contra Costa County involving possession of a firearm, stealing a car, resisting arrest, drug possession and hit and run. His Mental Health Diversion was terminated in August 2025, nearly three years after the initial incident. He then pled to the charges and received a six-year prison term. He will be eligible for parole consideration in May 2028.

Mental health diversion, created under **Penal Code §1001.36,** was designed to help individuals suffering from mental illness receive treatment instead of incarceration. However, recent court rulings and statutory limitations have significantly restricted judges' ability to deny diversion - even in serious and violent cases - leaving courts with limited authority to evaluate whether diversion is truly appropriate.

District Attorney Jeff Reisig stated: "Our justice system must balance compassion for mental illness with our fundamental responsibility to protect public safety. Limiting a judge's discretion to deny diversion, especially in cases involving very violent conduct, compromises the safety of victims and our communities."

Under current law, once a defendant meets certain statutory criteria, judges have very limited discretion to deny diversion. Courts have even been forced to approve diversion in cases where **no clear treatment plan exists, community safety is at risk,** or where defendants have **failed prior treatment efforts -** due to how the statute is written and interpreted by appellate courts. |

Further, once a defendant completes Mental Health Diversion, the crime is removed from the defendant's criminal history, removing accountability for dangerous crimes as if the crime was never committed. This puts victims, law enforcement and communities at risk if the program is not implemented properly.

AB 46 addresses these concerns by allowing courts to consider whether a defendant poses a **substantial and undue risk to the physical safety of another person** and whether the proposed treatment plan is **clinically appropriate to address the mental health condition that contributed to the crime.**

AB 46 will be heard in the Senate Public Safety Committee on March 17.

Members of the public can watch the hearing live at **1:30 p.m.** at: https://spsf.senate.ca.gov/committeehome Read the CDAA letter of support here.

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