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For Immediate Release

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San Diego DA Sounds the Alarm on Diversion for Violent Crimes Section of Assembly Bill 1810

DA Stephan Calls on Governor to Replace Pre-Trial Mental Health Diversion for Violent Criminals Language and Protect Public's Safety

San Diego County District Attorney [Summer Stephan](#) is strongly urging California Governor Jerry Brown to send Assembly Bill 1810 back to the Legislature for vital revisions relating to pre-trial mental health diversion for serious and violent criminals. At issue is an 88-page multi-health related budget trailer bill that, if signed, will become effective immediately. AB 1810, with its major policy changes, was introduced in January, surfaced in only one committee, was heard on the floor of both houses and delivered to the Governor in a whirlwind seven-day process. AB 1810 addresses many health funding concerns that are desperately needed, but sections that deal with mental health pre-trial diversion for every felony crime are a monumental sea-change that will jeopardize public safety and not hold serious and violent offenders accountable.

The San Diego District Attorney's Office is not objecting to the many positive aspects of AB 1810 that would normally be found in a budget trailer bill, including funds for infant care. The objection is solely to the creation of a new class of serious and violent criminals who won't be held accountable under this legislation.

"We are counting on the Governor to protect victims' rights and help us adopt sensible language in these specific sections that will assist all California communities in helping mentally ill offenders get appropriate treatment," said District Attorney Stephan. "We trust that Governor Brown, who has for many years worked to protect victims' rights while supporting second chances would put a stop to this dangerous, proposed law."

San Diego County has been a leader in criminal justice reform that is safe and balanced, including the implementation of the DA's Criminal Justice Initiative that diverts low level, non-violent offenders and allows them screening for mental health and substance abuse and treatment.

The current language in AB 1810 allows mental health treatment pre-trial diversion for every type of crime, including serial rape or murder. The bill allows no exclusion for the type of crime

committed, no exclusion for prior criminal history, and diversion instead of prosecution that would be available for those with almost every kind of mental health diagnosis. This means that paraphilia, often diagnosed as the mental health issue for serial rapists, and depression, often associated with mass school shooting murders, are not excluded.

Pre-trial diversion outlined in the bill would mean that there is no record of a conviction so natural protective consequences such as registering as a sex offender or not being able to possess firearms would not apply to perpetrators of violent crimes. The California District Attorneys Association also opposes the bill.

“This bill tramples on the constitutional rights of victims to a speedy trial, restitution and input at every stage in the process,” DA Summer Stephan said. “AB 1810 amounts to a dangerous social experiment and is not the way to accomplish responsible mental health reform. There is hardly a serious or violent felony offense where a criminal defense attorney would not make the case that his or her client should undergo a mental health evaluation.”

Additionally, defendants would not be barred from obtaining firearms during their two-year diversion nor after they finish their “treatment” experiment. AB 1810 requires their record be sealed and dismissed, allowing them to obtain firearms. In essence, having a mental health diagnosis could immunize a defendant from the rules and consequences that persons without a mental health diagnosis must follow.

Under AB 1810, the system would come to a halt while a judge as the sole decision maker is required to obtain a mental health evaluation and decide on a defendant’s dangerousness and whether they can be treated in the community. While the criminal justice system deals with the onslaught of new mental health cases, defendants will be in jail or in the community without treatment as they wait for their evaluations. Cases would further be compromised by delays, disappearing witnesses and fading memories, even in cases where diversion is ultimately not granted, but particularly where diversion is granted.

“All this, while victims watch horrified from the sidelines wondering whether anyone will be held accountable for their rape, robbery or the murder of their loved one,” DA Stephan said.

Under AB 1810, if the defendant has a relapse and harms another victim, they would still be eligible to go through the whole mental health treatment process again. If after two years, the court decides treatment didn’t work, prosecutors would then have to seek out witnesses to have them testify for the first time to a years-old incident.

The only factors the judge considers in deciding whether to divert the majority of defendants are whether the defendant will pose an unreasonable risk of danger to public safety by if treated in the community, and whether the mental health illness of the defendant is likely to respond to treatment.

“This puts the court in the untenable position of trying to predict dangerousness,” DA Stephan said. “AB 1810 is focused entirely on rehabilitation and reducing state hospital stays and prison populations, while turning a blind eye to accountability and public safety.”

Instead of signing AB 1810, DA Stephan is urging Gov. Brown to carve out the pre-trial mental health sections in the bill and to meet with her to discuss alternative language. One possibility is replacing those portions with Senate Bill 215 (Beall-D), which has been fully vetted by the

California District Attorneys Association, other statewide-stakeholders, and several legislative committees. SB 215 offers criminal justice reform and pretrial mental health diversions, but has exclusions for violent crimes and exclusions for certain mental health diagnoses.

“SB 215 includes restitution to victims as is constitutionally required,” DA Stephan said. “SB 215 is reasonable approach to these issues and care has been taken to protect victims, their rights and the public. It provides reasonable and responsible language and is clearly the way to make safe and sensible reforms.”

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About the San Diego County District Attorney’s Office

The San Diego County DA’s Office prosecutes all felony crimes in the county and misdemeanor crimes committed outside the City of San Diego. The office files about 40,000 criminal cases a year and balances prosecution with numerous crime prevention programs. District Attorney Summer Stephan leads the office of more than 1,000 dedicated employees who pursue justice and support victims daily across San Diego County. DA Summer Stephan has devoted her life to protecting children and families and providing justice to the voiceless and most vulnerable. She is a national leader in the fight against sexual exploitation and human trafficking, and has served as a Deputy District Attorney in San Diego County for 28 years.