

**Introduced by Senator Stern**February 21, 2025

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An act to add Section 2603.5 to the Penal Code, relating to county jail inmates.

## LEGISLATIVE COUNSEL'S DIGEST

SB 820, as introduced, Stern. Inmates: psychiatric medication: administration.

Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated. Existing law, in the case of a misdemeanor charge in which the defendant is found incompetent, requires the court to hold a hearing to determine if the defendant is eligible for diversion. Existing law requires, if the defendant is not eligible for diversion, the court to hold a hearing to determine whether the defendant will be referred to outpatient treatment, conservatorship, or the CARE program, or if the defendant's treatment plan will be modified. Existing law requires the court to dismiss the case if a defendant does not qualify for the above-described services.

Existing law prohibits, except as specified, a person confined in a county jail from being administered any psychiatric medication without prior informed consent. Existing law authorizes a county department of mental health, or other designated county department, to involuntarily administer psychiatric medication to an inmate on a nonemergency basis only after the inmate is provided, among other things, a hearing before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer. Existing law also provides for the involuntary administration of psychiatric medication to an inmate in an

emergency situation. Existing law limits the duration during which an inmate can be involuntarily administered psychiatric medication on an emergency basis and requires that, except as specified, the inmate be provided the same due process protections they would be entitled to when psychiatric medication is involuntarily administered on a nonemergency basis. Existing law specifies that an emergency exists for these purposes when there is a sudden and marked change in an inmate's mental condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others and it is impractical, due to the seriousness of the emergency, to first obtain informed consent.

This bill would, if a defendant has been found incompetent to stand trial after having been charged with a misdemeanor, additionally authorize a psychiatrist to administer psychiatric medication to the defendant without their informed consent on an emergency basis when treatment is immediately necessary for the preservation of life or the prevention of serious bodily harm and it is impracticable to first gain consent. The bill would specify that a determination made pursuant to these provisions is valid for one year after the date of the initial determination of the emergency, 90 days after the date the defendant is referred to one of the programs described above, or upon order of any court with jurisdiction over the defendant, whichever occurs first. The bill would also authorize a psychiatrist to involuntarily administer psychiatric medication to those defendants upon a court's determination that the defendant does not have the capacity to refuse treatment and is gravely disabled on the basis that they, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, are unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care. The bill would establish various procedures to be followed when psychiatric medication is involuntarily administered pursuant to these provisions.

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

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

1     SECTION 1. Section 2603.5 is added to the Penal Code, to  
2     read:

2603.5. Notwithstanding Section 2603, if a defendant has been found incompetent to stand trial after having been charged with a misdemeanor offense, as described in Section 1370.01, a psychiatrist may administer psychiatric medication without the defendant's informed consent in either of the following circumstances:

(a) (1) An emergency, as defined by either subdivision (m) of Section 5008 of the Welfare and Institutions Code or subdivision (d) of Section 2602 of the Penal Code. The facility shall file with the Office of Administrative Hearings, and serve on the defendant and their counsel, the written notice described in paragraph (7) of subdivision (c) of Section 2602 within 72 hours after commencing medication pursuant to this subdivision, unless either of the following occurs:

(A) The defendant gives informed consent to continue the medication.

(B) A psychiatrist determines that the psychiatric medication is not necessary and administration of the medication is discontinued.

(2) An order made pursuant to this paragraph is subject to the limitations set forth in paragraphs (2) and (3) of subdivision (d) of Section 2602.

(3) A determination that the defendant may receive involuntary medication remains valid for one of the following periods, whichever occurs first:

(A) One year after the date of the initial determination of the emergency.

(B) Ninety days after the date when the defendant is referred to a program described in paragraph (4) of subdivision (b) of Section 1370.01.

(C) Upon order of any court with jurisdiction over the defendant including pursuant to a program described in paragraph (4) of subdivision (b) of Section 1370.01.

(b) (1) Upon a court's determination that the defendant is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, and that the defendant does not have the capacity to refuse treatment with psychiatric medication. For purposes of this paragraph, the fact that a defendant has temporary access to food, clothing, shelter, personal safety, and necessary medical care while

1 incarcerated does not constitute evidence that the defendant is able  
2 to provide for their basic personal needs for food, clothing, shelter,  
3 personal safety, or necessary medical care, which shall be evaluated  
4 based upon the defendant's ability to provide for those needs while  
5 not incarcerated.

6 (2) A person who is subject to an order made pursuant to this  
7 subdivision has the legal and civil rights set forth in Article 7  
8 (commencing with Section 5325) of Chapter 2 of Part 1 of Division  
9 5 of the Welfare and Institutions Code.

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