



# County of Monterey

Item No.

## Board Report

Board of Supervisors  
Chambers

168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 25-599

August 26, 2025

Introduced: 8/20/2025

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Consider the County's Draft Expenditure Plan for the State of California Department of State Hospitals (DSH) to expend up to \$1,425,000 for the County's FY 2023-24 Incompetent to Stand in Trial (IST) growth cap and penalty per Welfare & Institutions Code (W&I Code) Section 4336;
- b. Authorize the County Administrative Officer or designee to adjust and edit the County's Draft Expenditure Plan to DSH prior to finalization for submission by August 29, 2025, so long as edits do not substantially change the scope of the plan; and,
- c. Approve and authorize the County Administrator Officer or designee to submit the final Expenditure Plan to DSH by August 29, 2025.

### RECOMMENDATION:

It is recommended that the Board of Supervisors

- a. Consider the County's Draft Expenditure Plan for the State of California Department of State Hospitals (DSH) to expend up to \$1,425,000 for the County's FY 2023-24 Incompetent to Stand in Trial (IST) growth cap and penalty per Welfare & Institutions Code (W&I Code) Section 4336;
- b. Authorize the County Administrative Officer or designee to adjust and edit the County's Draft Expenditure Plan to DSH prior to finalization for submission by August 29, 2025, so long as edits do not substantially change the scope of the plan; and
- c. Approve and authorize the County Administrator Officer or designee to submit the final Expenditure Plan to DSH by August 29, 2025.

### SUMMARY/DISCUSSION:

The County Administrative Office (CAO) seeks approval to submit the County's Incompetent to Stand Trial (IST) Growth Cap Expenditure Plan to the California Department of State Hospitals (DSH), as required under Welfare & Institutions Code (W&I Code) Section 4336, to address the County's felony IST growth cap and associated penalty payment.

The California Felony IST Growth Cap Program, established by Senate Bill 184 and codified in W&I Code Section 4336, sets an annual limit on felony IST determinations for each county. It encourages counties to redirect funds toward initiatives that divert individuals with serious mental illnesses from the criminal justice system, aiming to reduce felony IST commitments. Counties exceeding their IST baseline face financial penalties, which are deposited into the State Mental Health Diversion Fund to support local diversion programs. The penalty structure is tiered: 50% of the state hospital treatment rate for the fifth through seventh individuals above the baseline, 75% for the eighth and ninth, and 100% for the tenth and beyond. Starting in FY 2026-27, penalties will increase to 100% for the third and subsequent overages for counties with DSH diversion contracts, and 150% for those without, highlighting the need to strengthen local diversion efforts.

The County's baseline, based on FY 2021-22 data, is 59 felony IST determinations annually. In FY 2022-23, the County recorded 44 commitments, staying below the cap. However, in FY 2023-24, the County had 84 commitments, exceeding the cap by 25, resulting in a \$1,425,000 penalty owed to DSH. With Board approval, this penalty was funded through FY 2024-25 General Fund Contingencies.

Per DSH requirements, counties exceeding their growth cap must submit an expenditure plan to access 100% of their remitted penalty funds from the Mental Health Diversion Fund. The plan must outline strategies to reduce felony IST determinations through pre-booking diversion, post-booking diversion, or re-entry services. The CAO collaborated with the Public Defender's Office, District Attorney's Office, Probation, and the Health Department's Behavioral Health Bureau to develop a comprehensive plan to minimize future IST growth cap penalties. Attached is the County's draft expenditure plan based on the DSH template and the \$1,425,000 penalty amount. Staff recommends submitting the Expenditure Plan as soon as possible.

OTHER AGENCY INVOLVEMENT:

The CAO has created a workgroup between the Public Defender's Office, District Attorney's Office, Probation, and Health Department Behavioral Health Bureau to strategize on the County's approach to minimize or prevent future IST Growth Cap penalties.

FINANCING:

Approval of the draft plan will have no impact on the General Fund; however, submission of the plan to the State will enable the County to access the \$1,425,000 in penalty funding that will be used to expand the reach of mental health diversion.

Prepared by: Kevin Serrano, Deputy County Counsel III

Approved by: Nicholas E. Chiulos, Chief Assistant County Administrative Officer

Attachment:

Draft Expenditure Plan