

Date of Hearing: May 1, 2025

Fiscal: Yes

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

AB 1387 (Quirk-Silva) – As Amended March 17, 2025

SUBJECT: Mental health multidisciplinary personnel team

SYNOPSIS

For decades, people struggling with behavioral health issues have made up a disproportionate share of the state's jail and prison populations. In an effort to better address the needs of people who are cycling in and out of county jails due to significant behavioral health issues, this bill would allow counties that establish behavioral health multidisciplinary personnel teams (MPTs) to share confidential information in order to provide a continuity of services and care for people who need behavioral health care and are either being held in or released from a county jail.

Sponsored by the Orange County Sheriff's Department, the bill is virtually identical to AB 1788 (Quirk-Silva, 2024), which was passed by this Committee last year but subsequently vetoed by the Governor. As with that bill, the primary concern of this Committee is to ensure that the creation of behavioral health MPTs does not put the sensitive personal information of the people being connected with services at risk. This bill retains all of the privacy protections contained in the previous bill.

The bill enjoys the support of the California State Sheriffs' Association and has no registered opposition. This bill was previously heard by the Public Safety Committee, where it passed on consent.

THIS BILL:

- 1) Allows a county to establish a mental health multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of justice-involved (JI) persons diagnosed with a mental illness to supportive services within that county while incarcerated and upon release from county jail and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating supportive services to ensure continuity of care.
- 2) Defines the following terms:
 - a) "Justice-involved person" as "an individual who is currently incarcerated within a county jail or who has been incarcerated in an county jail."
 - b) "Mental health multidisciplinary personnel team" as "any team of two or more persons who are trained in the identification and treatment of individuals with mental illness, and who are qualified to provide a broad range of services related to mental health." The team may include, but not be limited to, all of the following:
 - i) Mental health and substance abuse services personnel and practitioners or other trained counseling personnel.

- ii) Medical personnel with sufficient training to provide health services.
 - iii) Social services workers with experience or training in the provision of services to adults with mental illness and eligibility for services.
 - iv) Case managers or case coordinators responsible for referral, linkage, or coordination of care and services provided to adults.
- c) "Provider agency" as "any governmental or other agency that has, as one of its purposes, the identification, assessment, and linkage of housing or supportive services to individuals with mental illness." The provider agencies serving adults that may share information under this section include, but are not limited to, all of the following entities or service agencies:
- i) Social services;
 - ii) Health services;
 - iii) Mental health services;
 - iv) Substance abuse services;
 - v) Probation;
 - vi) Law enforcement;
 - vii) Legal counsel for the adult or family representing them in a criminal matter;
 - viii) Veterans services and counseling; and,
 - ix) Homeless services.
- 3) Authorizes members of a mental health multidisciplinary personnel team to disclose and exchange information and writings with one another that relate to any information that may be designated as confidential under state law if the member of the team reasonably believes it is generally relevant to the identification of mental illness and the provision of services.
- 4) Provides that any discussion between team members, is confidential and, notwithstanding any other law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.
- 5) Provides that the disclosure and exchange of information of the multidisciplinary personnel team may occur electronically if there is adequate verification of the identity of the mental health multidisciplinary personnel who are involved in that disclosure or exchange of information.
- 6) Requires that the disclosure and exchange of information between the multidisciplinary personnel team not be made to anyone other than members of the mental health multidisciplinary personnel team, and designated persons qualified to receive information by the team.

- 7) Allows a multidisciplinary personnel team to designate persons qualified to be a member of the team for a particular case.
- 8) Permits a person designated as a team member to receive and disclose relevant information and records, subject to confidentiality provisions, as specified.
- 9) Requires the sharing of information permitted, as specified, to be governed by protocols developed in each county describing how and what information may be shared by the mental health multidisciplinary personnel team to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law.
- 10) Requires a copy of the protocols be distributed to each participating agency and to persons in those agencies who participate in the multidisciplinary personnel team, and be posted on the county's website within 30 days of adoption.
- 11) Requires each participating county to provide a copy of its protocols to the State Department of Healthcare Services (DHCS).
- 12) States the sharing of information by mental health multidisciplinary personal team members shall not be construed to require the DHCS to review or approve any multidisciplinary personnel team county protocols it receives.
- 13) Requires a protocol developed in a county, as specified, to include, but not be limited to, all of the following:
 - a) The items of information or data elements that will be shared.
 - b) The participating agencies.
 - c) A description of how the information shared will be used by the mental health multidisciplinary personnel team only for the intended purposes as specified.
 - d) The information retention schedule that participating agencies shall follow.
 - e) A requirement that no confidential information or writings be disclosed to persons who are not members of the multidisciplinary personnel team except to the extent required or permitted under applicable law.
 - f) A requirement that participating agencies develop uniform written policies and procedures that include security and privacy awareness training for employees who will have access to information pursuant to this protocol.
 - g) A requirement that all persons who have access to information shared by participating agencies sign a confidentiality statement that includes, at a minimum, general use, security safeguards, acceptable use, and enforcement policies.
 - h) A requirement that participating agencies employ security controls that meet applicable federal and state standards, including reasonable administrative, technical, and physical safeguards to ensure data confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure.

- i) A requirement that participating agencies take reasonable steps to ensure information is complete, accurate, and up to date to the extent necessary for the agency's intended purposes and that the information has not been altered or destroyed in an unauthorized manner.
- 14) Subjects every member of the mental health multidisciplinary personnel team who receives information or records regarding a JI person in that member's capacity as a member of the team to be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records.
- 15) Requires the information obtained to be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.
- 16) Provides that these provisions shall not be construed to restrict guarantees of confidentiality provided under state or federal law.
- 17) Requires information and records communicated or provided to the team members by all providers and agencies to be deemed private and confidential and to be protected from discovery or disclosure by all applicable statutory and common law protections.
- 18) States that existing civil and criminal penalties shall apply to the inappropriate disclosure of information held by the team members.

EXISTING LAW:

- 1) Prohibits, under the state Confidentiality of Medical Information Act (CMIA), a health care provider, a health care service plan, a contractor, a corporation and its subsidiaries and affiliates, or any business that offers software or hardware to consumers, including a mobile application or other related device, as defined, from intentionally sharing, selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except as expressly authorized by the patient, enrollee, or subscriber, as specified, or as otherwise required or authorized by law. States that a violation of these provisions that results in economic loss or personal injury to a patient is a crime. (Civ. Code § 56, et. seq.)
- 2) Defines, for purposes of the CMIA, medical information to mean any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, behavioral health app information, behavioral or physical condition, or treatment. (Civ. Code § 56.05(j).)
- 3) Prohibits health care providers, health care service plans, or contractors, as defined, from sharing medical information without the patient's written authorization, subject to certain exceptions. (Civ. Code § 56.10(a).)
- 4) Prohibits behavioral health and developmental services providers, as defined, from sharing information and records about a patient, regardless of whether they are receiving voluntary or involuntary care, without the patient's authorization, subject to certain exceptions. (Welf. & Inst. Code § 5328.)

- 5) Establishes under federal law, the Health Information Portability and Accountability Act of 1996 (HIPAA), which sets standards for the privacy of individually identifiable health information and security standards for the protection of electronic protected health information, including, through regulations, that a HIPAA-covered entity may not condition the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits on the provision of an authorization, except under specified circumstances. Provides that if HIPAA's provisions conflict with state law, the provision that is most protective of patient privacy prevails. (42 U.S.C. § 1320d, et seq.; 45 Code Fed. Regs. Part 164.)
- 6) Defines "multidisciplinary personnel" as any team of three or more persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases, and who are qualified to provide a broad range of services related to child abuse or neglect, and may include but not be limited to psychiatrists, police officers, medical personnel, and social workers, among others. (Welf. & Inst. Code § 18951(d).)
- 7) Provides that each county may use a children's advocacy center to implement a coordinated multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment and sets forth standards that a children's advocacy center must meet. (Pen. Code § 11166.4.)
- 8) Allows a city, county, city and county, or community-based nonprofit organization to establish a domestic violence MPT consisting of two or more persons who are trained in the prevention, identification, management, or treatment of domestic violence cases and who are qualified to provide a broad range of services related to domestic violence. (Pen. Code § 13752(a).)
- 9) Allows a county to establish a homeless adult and family MPT with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within that county and to allow provider agencies and members of the MPT to share confidential information for the purpose of coordinating housing and supportive services to ensure continuity of care. (Welf. & Inst. Code § 18999.8(a).)
- 10) Allows an area agency on aging or a county, or both, to establish an aging MPT with the goal of facilitating the expedited identification, assessment, and linkage of older adults to services and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating services. (Welf. & Inst. Code § 9450(a)(1).)

COMMENTS:

1) **Author's statement.** According to the author:

California's justice system cannot achieve true rehabilitation without addressing the mental health crisis in our correctional facilities. More than half of those incarcerated struggle with mental health challenges, yet too many do not receive the care they need. AB 1387 ensures that every individual receives consistent, coordinated treatment from the beginning of incarceration through release. By breaking down barriers to information-sharing and prioritizing continuity of care, this bill strengthens public safety, reduces recidivism, and upholds our commitment to a more just and effective rehabilitation system.

2) **The multidisciplinary personnel team model.** Existing law authorizes MPTs to be formed and operated at the county level to allow for a coordinated interagency response to a number of issues where people may require support. MPTs provide their members the ability to share confidential information among team members for the specific purpose the MPT was established.

Under current law, collaboration through an MPT is permitted in the areas of elder abuse, aging services, intimate partner violence, homelessness, and child abuse. The MPT model is intended to allow multiple service providers and government agencies to act in a collaborative fashion to help meet the needs of the community as well as parties involved. The model has been used to expedite services for a number of vulnerable populations that need to interact with multiple agencies and services in order to have their needs met.

3) **County jails and people struggling with behavioral health problems.** According to a 2020 report on the prevalence of behavioral health issues among people being held in the state's county jails, on the last day of any given month in 2009 there were roughly 80,000 people in custody in a county jail and 15,500 of them had an open mental health case. By 2019 there were 72,000 people in custody in a jail, on average, and 22,000 of those people had an open mental health case.¹ For decades, people struggling with behavioral health issues have made up a disproportionate share of the state's jail and prison populations. In fact, the Los Angeles County jail system is the largest mental health system in the United States.²

4) **California Advancing and Innovating Medi-Cal (CalAIM).** The Department of Health Care Services (DHCS) has embarked on a multi-year process designed to allow the State's Medi-Cal program to integrate seamlessly with social services programs. The intention is to allow enrollees to access programs that allow them to focus on prevention and overall wellness.

CalAIM includes an initiative for medical and mental healthcare for JI individuals, including anyone who is now, or has spent time, in jails, youth correctional facilities, or prisons. In January 2023, DHCS received federal approval to offer a targeted set of Medicaid services to youth and eligible adults in state prisons, county jails, and youth correctional facilities for up to 90 days prior to release.

The goal of this CalAIM initiative is to “ensure continuity of health care coverage and services between the time they are incarcerated and when they are released. It also provides people who are reentering the community with the prescribed medications and durable medical equipment (DME) they need, and access to programs and services to support this important transition.”³ DHCS is partnering with state agencies, counties, and community-based organizations to establish a coordinated community reentry process that will connect people leaving incarceration to physical and mental health services prior to release.

¹ Franco, Konrad. *The Prevalence of Mental Illness in California Jails is Rising: An Analysis of Mental Health Cases & Psychotropic Medication Prescriptions, 2009-2019*, California Health Policy Strategies, LLC. (Feb. 2020) https://www.cdcr.ca.gov/ccjbh/wp-content/uploads/sites/172/2020/02/Jail_MentalHealth_JPSReport_02-03-2020.pdf.

² McCann, Sam. *For Decades, Los Angeles Jailed People with Mental Health Needs. Now, It's Finally Prioritizing Treatment*, Vera Institute of Justice (Dec. 22, 2022) <https://www.vera.org/news/for-decades-los-angeles-jailed-people-with-mental-health-needs-now-its-finally-prioritizing-treatment>.

³ DHCS, Justice-Involved Initiative, <https://www.dhcs.ca.gov/CalAIM/Justice-Involved-Initiative/Pages/home.aspx>

5) **Privacy protections in the bill.** The purpose of this bill is to allow counties to establish behavioral health MPTs in order to share the confidential information necessary to provide a continuity of services and care for people who need behavioral health care and are either being held in or released from a county jail.

The primary concern of this Committee is to ensure that the creation of behavioral health MPTs does not put the sensitive personal information of the people being connected with services at risk. This bill allows these MPTs to work across disciplines and departments while still minimizing data sharing and maintaining all of the privacy protections currently in place related to the sharing of personal medical and behavioral health records.

Toward that end, this bill contains the following privacy protections:

- Includes data minimization language, which is the idea that people's personal information and especially sensitive personal information should be retained and shared only when it is necessary for a specific purpose. The sharing of information between members of an MPT is limited to that which required for the identification of mental illness and the provision of services.
- Requires that any discussion that involves the disclosure or exchange of the information or writings during a team meeting is confidential and testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.
- Requires that every member of the MPT who receives information or records be subject to the same privacy and confidentiality obligations and penalties.
- Requires the information obtained to be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.
- States that the exchange of personal information must be done in accordance with all applicable state and federal privacy laws.

6) **Previous legislation.** This bill is virtually identical to AB 1788 (Quirk-Silva, 2024). That bill was vetoed by the Governor. In his veto message, he wrote:

My Administration is supportive of policies that can improve equity and supportive services to justice-involved (JI) individuals. The Department of Health Care Services (DHCS) is currently implementing the CalAIM JI Initiative, which provides pre-release Medi-Cal enrollment to ensure JI individuals have continuity of coverage upon release and access essential health services that will help them successfully return to their communities. For this reason, this bill is premature and may be duplicative. It would be more timely to assess this proposal following the full implementation of the DHCS CalAIM JI Initiative and the ability to evaluate data and identify any remaining gaps.

In response to that veto, the author notes in the bill's committee background information:

Orange County is one of the counties that have been selected for the pilot to this program. However, with all the information they received including regulations, county-letters, etc., they were still unsure how they can make sure all justice-involved persons were assessed, provided needed mental health services from the start.

The CalAIM initiative only allows Medi-Cal eligible (about 80% of the population) and only begins 90 days before their scheduled release. During the fall, we reached out to DHCS and met with their CalAIM team along with the Orange County Sheriff's Office. They provided us with a lot of background information on the initiative to review because they felt that OC Sheriffs can do this without the legislation. Our team, the Sheriff's team and lawyers reviewed everything. OC Sheriff's team felt that they were unable to go forth with the ability to provide assessment and services through a multidisciplinary team without a bill.

One of the points DHCS argues was the bill's clarification of following all state and federal laws and having cited them in the bill (which was taken in committee to appease the Oakland Privacy organization). They believed everyone knows to follow the confidentiality requirements.

However, if you look back to AB 271, Chapter 135 of 2023, Orange County Sheriffs had spearheaded a Homeless Death Review Committee. After almost a year, when it was time to share the data that would help their county to determine specified causes in an effort to address prevention, some entities were worried that sharing the data may "get them in trouble". They wanted to make sure it was in statutes to clearly allow this (even though we have a plethora of state and federal laws). However, this was a barrier we could fix by simply clarifying it in statutes.

This is the same problem OC is facing in an effort to make sure those in their care, have the services they need during incarceration. This bill authorizes a county to establish a mental health multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of justice-involved persons diagnosed with a mental illness to supportive services within that county while incarcerated and upon release from county jail and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating supportive services to ensure continuity of care. The Assemblywoman and the OC County Sheriff believe this bill is complementary to the CalAIM initiative and will continue to work with DHCS.

ARGUMENTS IN SUPPORT: California State Sheriffs' Association writes in support:

In recent years, the initiative known as California Advancing and Innovating Medi-Cal (CalAIM) was introduced to improve health outcomes for Medi-Cal enrollees, including those with complex health and behavioral health needs. A key component of CalAIM is the Prerelease/In-reach Care initiative, which allows Medi-Cal to provide limited services to incarcerated individuals for up to 90 days before their release.

While CalAIM seeks to improve outcomes for justice-involved individuals and focuses on a limited set of Medi-Cal services in the 90 days before release, AB 1387 ensures continuous mental health assessment and treatment from the start of incarceration through release. Unlike CalAIM's traditional service model, AB 1387 facilitates real-time, legally compliant information sharing between mental health and correctional staff, ensuring timely interventions and more effective treatment. Additionally, this proposal grants local control to counties, allowing them to tailor services beyond Medi-Cal eligibility constraints.

REGISTERED SUPPORT / OPPOSITION:

Support

Orange County Sheriff's Department
California State Sheriffs' Association

Opposition

None on file.

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