BEHAVIORAL HEALTH ADVISORY BOARD (BHAB) ACTION ITEM
APRIL 2, 2026

INCOMPETENT TO STAND TRIAL (IST) PROGRAMMING AND INFRASTRUCTURE
BOARD LETTER DRAFT

In 2022, Senate Bill (SB) 184 created the Incompetent to Stand Trial (IST) *Growth Cap* on felony IST commitments to the California Department of State Hospitals (DSH) which granted each county a penalty-free baseline of IST commitments. It also established a penalty mechanism for counties who exceed their county-specific baseline starting fiscal year (FY) 2022-23. Additionally, the bill established the process through which counties can request their penalty back as long as the penalty funds are reinvested in approved local programs and services that reduce IST commitments, such as diversion, competency restoration, and community-based behavioral health treatment, consistent with state guidelines.

The County paid penalty funds for FY 2022-23 in the amount of $4,069,330 and FY 2023-24 in the amount of $2,669,914 due to exceeding the county's baseline in both FYs by 82 and 75 commitments, respectively. These penalty funds have been held in the Mental Health Diversion (MHD) Fund, which was also created by SB 184. The County has advanced a proposal to invest these penalty dollars into strengthening existing behavioral health treatment infrastructure and supporting operational cost in the Public Defender's Office, the Sheriff's Office, and the District Attorney's Office to identify at-risk of IST individuals for appropriate intervention early in the criminal justice process.

In February 2026, the County submitted a Growth Cap Expenditure Plan for FY 2022-23 and FY 2023-24 to DSH to increase Forensic Assertive Community Treatment (FACT) by 49 slots annually and strengthen justice partners' capacity to identify, advocate and refer individuals at-risk of IST to the appropriate level of care. DSH approved the proposed plan on March 27, 2026.

This action item requests the San Diego County Board of Supervisors authorize acceptance and appropriation of a total of $6,739,244 in one-time Growth Cap Penalty funds from DSH.

In 2023, DSH made funding available to counties to locally serve individuals charged with a felony offense who are found IST. This includes funding for local diversion and community-based restoration programming as well as infrastructure. The funding is intended to reduce the number of IST findings through upstream prevention before custody or diversion and to reduce the number of individuals with serious mental illness arrested and incarcerated for behavior connected to their illness.

The *IST Diversion and Community Based Restoration program* grant (IST Program Grant) will provide funding for individuals deemed IST with alternative treatment options outside of state hospitals. The various program components include community-based mental health treatment, intensive rehabilitation, and support services to help individuals restore their competence and reintegrate into the community. The program is designed to reduce the number of individuals awaiting admission to state hospitals and to provide them with the necessary supports to avoid criminal charges.

The *IST Diversion and Community-Based Restoration Infrastructure Project* grant (IST Infrastructure Grant) will provide funding for capital infrastructure to serve individuals who have been charged with a felony, deemed IST, and whom are enrolled in the IST Diversion and Community Based Restoration program, funded by the IST Program Grant.

In Summer 2024, DSH notified the County of a total of $41,622,000 for the IST Program Grant and $4,687,500 for the IST Infrastructure Grant, with the intent to serve a total of 50 individuals. This action requests the San Diego County Board of Supervisors authorize acceptance of $46,309,000 in one-time IST Program Grant and IST Infrastructure Grant funds from DSH. In addition, this action will direct the Department of General Services to solicit a Request for Specific Qualifications

This item supports the County vision of a just, sustainable, and resilient future for all, specifically those communities and populations in San Diego County that have been historically left behind, as well as our ongoing commitment to the regional Live Well San Diego vision of healthy, safe, and thriving communities by implementing new services that are designed to improve outcomes for persons with serious mental illness who are involved with the criminal justice system.

It is THEREFORE, staff's recommendation that BHAB supports the approval and authorization of the IST Programming and Infrastructure Board Letter Draft.