**Overview of Mental Health Diversion in Justice System**

**Highlights**: California Legislation AB 1810 and supporting penal code 1001.36 provides the possibility of individuals with mental disorders to avoid charges for many misdemeanors or felony offences if they have evidence of mental health disorders and the disorder was a significant factor in commission of the offense.

Certain offences and mental health conditions detailed in the penal code are excluded from qualifying for this diversion provision.

The court must be satisfied that the defendant will not pose an unreasonable risk of danger to public safety to qualify for the diversion program.

There has to be an expectation that the individual would respond to mental health treatment and the defendant must consent to diversion and comply with treatment as a condition of diversion.

Before approving the proposed treatment plan the court must be satisfied that the services are available and the providing parties have agreed to accept responsibility for the treatment of the defendant.

While a court approved diversion treatment plan is being successfully fulfilled any form of prosecution is postponed. If successful in the proscribed treatment plan all charges and record of the offense are eliminated. The period of diversion treatment for misdemeanors is one year and for felony offenses two years.

Failure to perform satisfactorily in diversion and/or additional criminal offenses during the period of diversion may be cause for the criminal proceedings to be reinstated.

**Key points to consider if you or your loved ones could benefit from this law:**

1. If you need to get information on this law contact Santa Cruz County Behavioral Health Access line at 831-454-4170 where your request will be forwarded to the right team.
2. The public defender is the individual who will request the diversion so advocating with them and providing history of mental health disorder will support the process. The current public defender in charge of this is Mark Brisco (email- mbrisco@scdefenders.com).
3. A key factor for the individual being charged is their willingness to agree with and comply with the diversion plan if approved. Often the individuals are not open to treatment and have to weigh the consequences of the outcomes of the criminal process proceeding to make their choice, which only they can do.
4. If there is a documented diagnosis of the individual’s disorder the diversion decision is more easily considered but for those individuals without a diagnosis the possibility still exists.
5. If an individual has successfully completed a diversion program and the charges have been dropped and subsequently there is an additional criminal infraction, they are still eligible for consideration for another diversion plan.
6. The diversion option is a legal process involving the court, the district attorney, the defense, and qualified mental health experts. The court considers the individual’s history, current charges and the ability of needed treatment options to be provided. The court considers all points of view and relevant facts in reaching a decision.
7. The possibility exists for initial felony charges to be reduced to misdemeanors once the district attorney and defense review the case with the consideration of how mental health disorders contributed.

Disclaimer: the content above is intended to provide an outline of the law allowing the ‘Diversion of Individuals with Mental Disorders’. Consultation with legal professionals is advised if you feel this could benefit you or your loved one.

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