



**Incompetent to Stand Trial (IST):** IST defendants are determined by the court to be unable to participate in their trial because they are not able to understand the nature of the criminal proceedings or assist counsel in the conduct of their defense. When the court finds a defendant incompetent to stand trial, he/she can be committed to DSH to provide clinical and medical services with the goal of restoring their competency and enabling them to return to court to resume their criminal proceedings. Per Assembly Bill (AB) 133, as of July 27, 2021, only defendants with felony charges may be committed to DSH. Defendants with misdemeanor charges (1370.01) can no longer be committed to DSH.

**Penal Code section 1370, subdivision (c)(3):** Whenever a defendant is returned to the court pursuant to Penal Code section 1370, subdivisions (b)(1) or (b)(4) and it appears to the court that the defendant is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code (WIC), the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings.

**WIC section 5008, subdivision (h)(1)(A) Lanterman-Petris-Short (LPS) Conservatorship:** Individual is "gravely disabled" defined as: a condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

**WIC section 5008, subdivision (h)(1)(B) Murphy Conservatorship:** Individual is "gravely disabled" defined as: A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and certain facts exist including the complaint, indictment, or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person; as a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against him/her and to assist counsel in the conduct of his/her defense in a rational manner; the person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.

**Penal Code section 1372, subdivision (e):** Known as an EIST, this is a defendant who has been issued a certificate of restoration of competency, but as recommended by the facility Medical Director, and approved by the court, the defendant shall remain at the facility, e.g., state hospital, for continued treatment through the criminal proceedings in order to maintain competency.

