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April 12, 2017

Honorable Nancy Skinner
Chair, Public Safety Committee
California State Senate
Capitol Building, Room 2059
Sacramento, CA 95814

RE: SB 684 (BATES) – OPPOSE UNLESS AMENDED

Dear Senator Skinner:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, opposes SB 684 unless amended. This bill is scheduled for hearing in the Senate Public Safety Committee on April 18, 2017.

Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and by which the defendant receives treatment with the goal of returning the defendant to competency. If the defendant is gravely disabled upon return to the committing court, existing law requires the court to order the county conservatorship investigator to initiate conservatorship proceedings on the basis that information pending against the person charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

This bill would allow the initiation of conservatorship proceedings on the basis that the person is gravely disabled due to a condition in which the 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. It would allow, if the action is on a complaint charging a felony involving death, great bodily

harm, or a serious threat to the physical well-being of another person, the prosecuting attorney, at any time before or after a defendant is determined incompetent to stand trial, to request a determination of probable cause to believe the defendant committed the offense alleged in the complaint. The bill would allow for the initiation of a conservatorship upon a criminal complaint if there has been a finding of probable cause on the complaint.

We have concerns about these provisions. They are overbroad and vague. First, if a person is ineligible for a conservatorship, asking the county to provide information to the court about their treatment or lack of treatment is not appropriate. Further, the county has requirements to maintain confidentiality about a patient's treatment, which the provisions attempt to circumvent (see pages 18 and 19, lines 25-40 and 1-22). Second, the provisions at page 3, lines 13-22, seem to allow for imposition of a conservatorship prior to an IST determination and attempt at restoration. People should be given a chance at restoration in order to face the charges and potentially be found not guilty or face little jail/prison time.

We appreciate that the bill specifies requirements for the calculation of custody credits earned prior to commitment in calculating the maximum term of commitment. Often, our clients remain in jail after being found incompetent to stand trial before receiving treatment at a state hospital or other facility. Counting the time spent in jail towards the maximum commitment makes sense.

For these reasons, we oppose this bill unless amended. Please contact me if you have any questions about our position on this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Margaret Johnson', with a stylized flourish at the end.

Margaret Johnson, Esq.
Advocacy Director
Disability Rights California

cc: Honorable Patricia Bates, California State Senate
Heidi Wettstein, Legislative Director, Office of Senator Bates
Honorable Members, Senate Public Safety Committee
Stella Choe, Counsel, Senate Public Safety Committee