



Chambers of
ERICK L. LARSH
PRESIDING JUDGE

Superior Court of California County of Orange

700 CIVIC CENTER DRIVE, WEST
DEPARTMENT C1
SANTA ANA, CA 92701

Amended Administrative Order No. 18/04

MENTAL HEALTH DIVERSION
Penal Code Section 1001.36

AB 1810 was signed by the Governor on June 26, 2018 and became law effective immediately. It added section 1001.36 to the Penal Code which establishes a diversion procedure for defendants with mental disorders. The statute authorizes courts to grant pretrial diversion on an accusatory pleading alleging the commission of a misdemeanor or felony offense. A condition of diversion is that defendants undergo mental health treatment for a period no longer than two years.

Penal Code section 1001.36 does not address how a request for mental health diversion is to be brought before the court. Section 1001.36 proceedings involve a request for a court order. A request for an order is a motion. (Code Civ. Proc., § 1003; *CEB Crim. Law Prac. & Procedure* (2016) § 18.1; Cal. Rules of Court, rule 4.111; OCSC Local Rules Div. 8.) The court has inherent authority to control the proceedings before it and to formulate rules of practice and procedure where justice demands it (See Code Civ. Proc., §§ 128 and 187; *Rutherford v. Owens-Illinois, Inc.* (1997) 16 Cal.4th 953, 967.)

Effective August 2, 2021, a pilot was launched in which all new Mental Health Diversion Motions will be submitted for filing to Department CCB1 (*Please click [HERE](#) to access filing procedures*). All motions for misdemeanor and felony cases shall include a proposed treatment plan. Motions, along with all subsequent hearings during the diversion period, will be heard in Department CCB1. Existing diversion cases with granted motions will stay with the judge who granted the motion where they are currently being heard.

IT IS SO ORDERED.

Dated this 4th day of August 2021.

A handwritten signature in blue ink, appearing to read "ERICK L. LARSH".

ERICK L. LARSH
Presiding Judge