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Assemblyman (Ret.) Mike Gatto

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Xavier Becerra
Attorney General
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Dear Attorney General Becerra,

All across California, people are concerned about homelessness. Like all issues, there are two sides (or more) to the debate. One side primarily believes the government should be more aggressive in making our streets safer for all people. The other side thinks government should be more lenient, believing that economic hardships are the singular cause. And everyone debates how best to engage those who are living on our streets.

I believe there is more in common between the sides than we think. It is not humane to leave people who need help to fend for themselves on the streets. Certain acts by those people, which hurt society as a whole, should be treated as cries for help and opportunities to engage people to get them help. Doing so will also help law-abiding citizens enjoy the safe and clean use of our streets, and encourage respect for our laws.

With those principles in mind, I submit the following initiative for title and summary.

Sincerely,

A handwritten signature in black ink that reads "Mike Gatto". The signature is written in a cursive, slightly slanted style.

Mike Gatto
California State Assemblyman (ret.)

Section 1. Title

This act shall be known as the "**California Compassionate Intervention Act.**"

Section 2. Purposes

This measure seeks to get help for those who need it, and thereby also greatly reduce nuisance behavior on our streets.

Section 3. Findings and Declarations

1. Respect for civil liberties is an important value. But public nuisances are a significant and growing problem in our state.

2. Many people causing public nuisances need help, but they cannot otherwise get it for themselves, because of personal issues or a lack of awareness of available resources.

3. Federal homeless census data shows that about 40 percent of the homeless are addicts and another 25 percent have "severe" mental illness. The Los Angeles Times recently analyzed data from the Los Angeles Homeless Services Authority, and found that 76% of individuals living outside, on the streets, reported being (or were observed to be) affected by mental illness, substance abuse, poor health, or a physical disability. We need to get these people help, in a way that respects their civil liberties.

4. Respect for the laws is important to a well-functioning society. When someone breaks the law, it should be enforced. However, certain criminal acts should be treated not as something meriting harsh punishment, but as a "cry for help." By actually enforcing existing laws, and creating no new crimes, we can engage individuals who need help. Once that person's life is in order, the records of their brush with law-enforcement should be expunged, where appropriate.

5. It is not humane to leave people who need help alone on the streets.

Section 4. The California Compassionate Intervention Act

The People of the State of California hereby add section 19.5 to the Penal Code:

19.5. The following crimes shall be known as Intervention Predicates: Violations of Penal Code sections 314, 370, 372, 640(d)(3), 647(a), 647(c), 647(e), 647(f); and Violations of Health & Safety Code sections 11350(a), 11365, 11377(a), 11350(a), 11375.5.

The People of the State of California hereby add section 832.19 to the Penal Code:

832.19. In order to protect public health and provide timely assistance to those in need, it is the will and intent of the people of the state of California that the Intervention Predicates be strictly enforced, but also treated as calls for help. When a peace officer as defined by sections 830.1, 830.31, or 830.33 has reasonable grounds and probable cause to believe an individual has violated any of the crimes listed in Section 19.5, that peace officer shall make a lawful arrest and take that individual into custody.

The People of the State of California hereby add to the Government Code:

70220. In every county with a population greater than 100,000, there is hereby established within the Superior Court of the county a Specialized Benefits, Treatment, and Therapy Court. The cases of defendants charged with any of the Intervention Predicates in Section 19.5 of the Penal Code shall be handled by the Court.

70221. The Court shall coordinate efforts between existing government agencies that offer financial assistance, addiction counseling, drug treatment, mental-health services, and health care (including prescription-drug) coverage.

(a) If the Court determines that the defendant's crime was caused in whole or in part by economic need, the Court shall provide the defendant with information and immediate assistance in securing and accessing housing, financial assistance, and social-safety-net programs under Welfare and Institutions Code section 17000 *et seq*, 18900 *et seq*, and similar programs.

(b) If the Court determines that the defendant's crime was caused in whole or in part by drug use or addiction, the Court shall provide the defendant with information and assistance with addiction counseling and drug treatment, with a focus on community-based treatment programs where appropriate.

(1) The Court shall sentence defendant to the maximum allowable sentence permitted by law, not to exceed 364 days, with the sentence to be served by participation in a court-approved addiction-counseling and drug-treatment program, including, where appropriate in the discretion of the Court, such programs offered within the county jail system, or another program requiring confinement, or a community-based treatment program under the supervision of the Court and/or probation system.

(2) When the sentence terminates, the defendant may appear before the Court again for another evaluation, at which time the Court may add terms of continuing counseling to the defendant's sentence and/or probation.

(c) If the Court determines that the defendant's crime was caused in whole or in part by a mental-health issue, the Court shall provide the defendant with information and assistance to secure mental-health services, including prescription-drug coverage.

(1) If the Court determines, with the assistance of two experts, that the defendant is a harm to him or herself due to mental-health issues, the Court shall appoint a guardian to make decisions for the defendant with respect to treatment and housing.

(2) The Court shall sentence defendant to the maximum allowable sentence permitted by law, not to exceed 364 days, with the sentence to be served is in a hospital or other mental-health-treatment facility.

(3) When the sentence terminates, the defendant shall appear before the Court again for another evaluation, at which time the defendant, with assistance from his or her guardian and the Court, shall decide if continuing treatment is appropriate.

(d) If the Court determines that none of the needs in subsections (a) through (c) are present, it shall sentence the defendant in its discretion, notwithstanding this enactment.

70222. It is the intent of the people of the state of California that convictions handed down by a Specialized Benefits, Treatment, and Therapy Court be automatically expunged after a reasonable period.

(a) Convictions where the judge makes a determination pursuant to subsection (a) shall be automatically expunged after one year.

(b) Convictions where the judge makes a determination pursuant to subsection (b) shall be expunged after the court enters a finding that the defendant has adhered to a drug-addiction treatment protocol.

(c) Convictions where the judge makes a determination pursuant to subsection (c) may be expunged in the discretion of the court at the appropriate time.

(d) In all cases handled by the Court, the probationer shall be informed of the right and privilege to petition for a certificate of rehabilitation and pardon.

(e) In any subsequent prosecution of the defendant for any other Intervention Predicate, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed.

(f) Nothing in this section shall be construed as a prohibition on a defendant utilizing the procedures in section 1203.4.

70223. In all matters, the Court and its personnel shall consider cultural, linguistic, gender, sexual orientation, age, and special needs of those based on any characteristic listed or defined in Section 11135 of the Government Code. Provision shall be made to remove barriers to mental health services as a result of having limited-English-speaking ability or cultural differences. Provision shall be made to identify and meet the needs of the LGBT community in any program or accommodations.

The People of the State of California hereby add section 5891 (e) to the Welfare and Institutions Code:

5891(e). Notwithstanding anything in this Act or any other law, the funding established pursuant to this Act shall be prioritized for the Superior Courts of each county, on a per capita basis, to implement Sections 70220 - 70223 of the Government Code. A continuous annual appropriation is hereby made, using funding established pursuant to this Act, in an amount not less than 20% of the total funding and revenues collected pursuant to this Act. Commencing January 1, 2020 and repeating each year thereafter, the Presiding Justice of each Court shall inform the Legislature of an estimate for implementing Sections 70220 - 70223 of the Government Code.

Section 5. Amendment

This Act can only be amended in the Legislature by a statute passed by a vote of two-thirds of the members of both houses.

Section 6. Application and Severability

The provisions of this act shall be construed broadly, with maximum effect to preserve the intent of the people, consistent with constitutional principles. If any provision of this Act or the application thereof is held to be invalid, that shall not affect any other provisions or applications of the Act that can be given any effect without the invalid provision, and to this end the provisions of this Act are severable.

Section 7. Legal Defense

If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

- (a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.
- (b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made public.
- (c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.