



2019 ASSEMBLY BILL 1006

March 13, 2020 - Introduced by Representatives GOYKE, CROWLEY, GRUSZYNSKI, ZAMARRIPA, EMERSON, DOYLE, NEUBAUER, POPE, SARGENT, ANDERSON, BILLINGS, BOWEN, HEBL, BROSTOFF, SPREITZER, CONSIDINE, SUBECK, CABRERA, SHANKLAND and VRUWINK, cosponsored by Senators JACQUE, CARPENTER, SMITH, RISSER and LARSON. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to repeal* 165.95 (2r), 165.95 (3) (a), 165.95 (3) (d), (e) and (f), 165.95 (3)
2 (j) and 165.95 (5m); *to renumber and amend* 165.95 (3) (i), 165.95 (5) (a) and
3 165.95 (5) (b); *to amend* 20.455 (2) (em) (title), 20.455 (2) (kn) (title), 20.455 (2)
4 (kv) (title), 165.95 (title), 165.95 (2), 165.95 (3) (b), 165.95 (3) (c), 165.95 (3) (g),
5 165.95 (3) (h), 165.95 (3) (k), 165.95 (6), 302.43, 950.04 (1v) (g), 961.472 (5) (b),
6 967.11 and 973.155 (1m); and *to create* 20.455 (2) (ej), 165.95 (1) (ac), 165.95
7 (3) (ae), 165.95 (3) (ag), 165.95 (3) (bd), 165.95 (3) (cm) 2. and 165.95 (3m) of the
8 statutes; **relating to:** providing grants to certain county or tribal treatment
9 alternatives and diversion programs and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill provides additional funding for and makes changes to the treatment alternatives and diversion (TAD) grant program administered by the Department of Justice.

Under current law, DOJ awards grants to counties that have established qualifying TAD programs for persons who are or may be charged with, or who are convicted of, offenses related to the person's use or abuse of alcohol or other drugs. Under current law, a TAD program is intended to offer alternatives to prosecution

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or incarceration for offenders with substance abuse problems in order to reduce recidivism, promote public safety, and reduce prison and jail populations.

Under current law, in order to qualify for a TAD grant, a county's program must meet certain criteria, including offering treatment alternatives for the offender's substance use, and coordinating with other specialists, including mental health treatment providers, social services providers, and case workers in order to provide intensive case management. Each qualifying program must be developed in collaboration with representatives from the judicial system, law enforcement and corrections, social and welfare service providers, and mental health and substance abuse treatment providers. Further, under current law, each county that receives a TAD grant creates an oversight committee with representatives from those agencies or services to administer and evaluate the program.

Under current law, a TAD program that receives a grant is subject to state audits and each county that receives a TAD grant must submit an annual report to DOJ and to the oversight committee that details its progress in promoting public safety, reducing recidivism and lowering costs, and meeting the treatment and other needs of program participants.

Current law allows counties to administer a TAD program jointly and requires any county that receives a grant to provide matching funds that are equal to 25 percent of the amount of the grant. Eligible programs must require participants to pay a reasonable amount for their treatment within the program.

This bill makes several changes to the TAD grant program. Under the bill, a program funded by a TAD grant need not focus solely on alcohol and other drug treatment, but must employ evidence-based practices and must be designed to promote effective criminal justice policies to reduce prosecution and incarceration costs, reduce recidivism, and enhance justice and public safety.

The bill requires each program to be designed to integrate and coordinate services from several providers, including a participant's behavioral health treatment providers, case managers, and compliance monitors. The bill requires each program to use eligibility criteria based on risk, need, and responsivity assessments and to tailor its services to the needs of each participant or target population.

The bill allows, but does not require, an eligible program to require participants to pay an amount towards their treatment. The bill eliminates the 25 percent matching funds requirement.

Under the bill, DOJ must consult with the Criminal Justice Coordinating Council to establish eligibility criteria and to determine which county or tribe programs meet the eligibility requirements. The bill requires each county or tribe to establish a criminal justice oversight committee to develop and implement the program design and advise the county or tribe in administering and evaluating its program.

Under the bill, a program must specify whether or not certain violent offenders will be allowed to participate. If so, there must be a victim advocate on the program's oversight committee, if such an advocate exists in the program's county. If the

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1 20.455 (2) (em) (title) *Alternatives Grants for alternatives to prosecution and*
2 *incarceration for persons who use alcohol or other drugs; presentencing assessments.*

3 **SECTION 4.** 20.455 (2) (kn) (title) of the statutes is amended to read:

4 20.455 (2) (kn) (title) *Alternatives to prosecution and incarceration for persons*
5 *who use alcohol or other drugs; justice information fee.*

6 **SECTION 5.** 20.455 (2) (kv) (title) of the statutes is amended to read:

7 20.455 (2) (kv) (title) *Grants for substance abuse treatment programs for*
8 *criminal offenders alternatives to prosecution and incarceration programs.*

9 **SECTION 6.** 165.95 (title) of the statutes is amended to read:

10 **165.95** (title) **Alternatives to prosecution and incarceration; grant**
11 **program.**

12 **SECTION 7.** 165.95 (1) (ac) of the statutes is created to read:

13 165.95 (1) (ac) “Evidence-based practice” means a practice that has been
14 developed using research to determine its efficacy for achieving positive measurable
15 outcomes, including reducing recidivism and increasing public safety.

16 **SECTION 8.** 165.95 (2) of the statutes, as affected by 2019 Wisconsin Act 9, is
17 amended to read:

18 165.95 (2) The department of justice shall make grants to counties and to tribes
19 to enable them to establish and operate programs, including suspended and deferred
20 prosecution programs and programs based on principles of restorative justice, that
21 provide alternatives to prosecution and incarceration for criminal offenders who
22 ~~abuse alcohol or other drugs.~~ The department of justice shall make the grants from
23 the appropriations under s. 20.455 (2) (ek), (em), (jd), (kn), and (kv). The department
24 of justice shall collaborate with the ~~departments of corrections and health and family~~
25 ~~services in establishing this grant program~~ criminal justice coordinating council in

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1 order to maximize the impact of the program funded by grants awarded under this
2 section.

3 **SECTION 9.** 165.95 (2r) of the statutes is repealed.

4 **SECTION 10.** 165.95 (3) (a) of the statutes is repealed.

5 **SECTION 11.** 165.95 (3) (ae) of the statutes is created to read:

6 165.95 (3) (ae) 1. The program specifies whether a violent offender is eligible
7 to participate in the program.

8 2. If the program specifies that a violent offender is eligible to participate in the
9 program, the program shall do all of the following:

10 a. Include at least one representative of an organization that advocates for
11 victims of violent crime on the criminal justice oversight committee specified in par.
12 (cm), provided such an advocate exists in the program's county.

13 b. If a violent offender who, in a pending case, has been charged or convicted
14 of a domestic abuse offense, as defined in s. 968.075 (1) (a), is allowed to participate
15 in the program, the criminal justice oversight committee specified in par. (cm) shall
16 consult with a batterers' treatment provider and define how batterers' treatment will
17 be used to treat these violent offenders.

18 c. At the request of the victim, have the district attorney make a reasonable
19 attempt to provide the victim with notice of the date, time, and place of scheduled
20 court proceedings that are held in connection with the violent offender's
21 participation in the program.

22 **SECTION 12.** 165.95 (3) (ag) of the statutes is created to read:

23 165.95 (3) (ag) The program operates within the continuum from arrest to
24 discharge from supervision and provides an alternative to prosecution or

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1 incarceration, including suspended and deferred prosecution or community-based
2 corrections.

3 **SECTION 13.** 165.95 (3) (b) of the statutes is amended to read:

4 165.95 (3) (b) The program employs evidence-based practices and is designed
5 to promote and facilitate the implementation of effective criminal justice policies and
6 practices that maximize justice and public and victim safety, reduce prison and jail
7 populations, reduce prosecution and incarceration costs, and reduce recidivism, ~~and~~
8 ~~improve the welfare of participants' families by meeting the comprehensive needs of~~
9 ~~participants.~~

10 **SECTION 14.** 165.95 (3) (bd) of the statutes is created to read:

11 165.95 (3) (bd) The program identifies each target population served by the
12 program and identifies the evidence-based practices the program employs for each
13 target population it serves.

14 **SECTION 15.** 165.95 (3) (c) of the statutes is amended to read:

15 165.95 (3) (c) The program establishes eligibility criteria for a person's
16 participation. ~~The criteria shall specify that a violent offender is not eligible to~~
17 ~~participate in the program, including criteria based on validated risk, needs, and~~
18 responsivity assessments.

19 **SECTION 16.** 165.95 (3) (cm) 2. of the statutes is created to read:

20 165.95 (3) (cm) 2. If the program is administered by a tribe, the criminal justice
21 oversight committee shall consist of a representative of the judiciary, a
22 representative of criminal prosecution and criminal defense, a social services
23 provider, a behavioral health treatment provider, a law enforcement officer, a
24 representative of corrections, and other members that the oversight committee
25 determines are appropriate to the program.

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1 **SECTION 17.** 165.95 (3) (d), (e) and (f) of the statutes are repealed.

2 **SECTION 18.** 165.95 (3) (g) of the statutes is amended to read:

3 165.95 (3) (g) The program is designed to integrate all ~~mental health services~~
4 provided to program participants by state and local government agencies, tribes, and
5 other organizations. The program shall require regular communication and
6 coordination among a participant's ~~substance abuse treatment providers, other~~
7 service providers, the case manager, and any person designated under the program
8 to monitor the person's compliance with his or her obligations under the program,
9 and any probation, extended supervision, and parole agent assigned to the
10 participant.

11 **SECTION 19.** 165.95 (3) (h) of the statutes is amended to read:

12 165.95 (3) (h) The program provides ~~substance abuse and mental health~~
13 ~~treatment services~~ through providers that employ evidence-based practices in the
14 delivery of services and, where applicable, that are certified by the ~~department of~~
15 ~~health services~~ or licensed to provide the services approved under the program.

16 **SECTION 20.** 165.95 (3) (i) of the statutes is renumbered 165.95 (3d) and
17 amended to read:

18 165.95 (3d) The A program requires that receives a grant under this section
19 may require participants to pay a reasonable amount for their treatment, based on
20 their income and available assets, and pursues and uses all possible resources
21 available through insurance and federal, state, and local aid programs, including
22 cash, vouchers, and direct services.

23 **SECTION 21.** 165.95 (3) (j) of the statutes is repealed.

24 **SECTION 22.** 165.95 (3) (k) of the statutes is amended to read:

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1 165.95 (3) (k) The county or tribe complies with other eligibility requirements
2 established by the department of justice, in consultation with the criminal justice
3 coordinating council, to promote the objectives listed in ~~pars. (a) and (b)~~ this
4 subsection.

5 **SECTION 23.** 165.95 (3m) of the statutes is created to read:

6 165.95 (3m) The department of justice shall consult with the criminal justice
7 coordinating council to determine which programs meet the specifications set forth
8 in sub. (3) and will receive a grant under this section.

9 **SECTION 24.** 165.95 (5) (a) of the statutes is renumbered 165.95 (3) (cm) (intro.)
10 and amended to read:

11 165.95 (3) (cm) (intro.) ~~A county or tribe that receives a grant under this section~~
12 ~~shall create an~~ The program identifies a criminal justice oversight committee to
13 develop and implement the program design and advise the county or tribe in
14 administering and evaluating its program. ~~Each~~ The membership of each criminal
15 justice oversight committee shall be as follows:

16 1. If the program is administered by a county, or by a county and a tribe
17 pursuant to sub. (6), the criminal justice oversight committee shall consist of a circuit
18 court judge, the district attorney or his or her designee, the state public defender or
19 his or her designee, a local law enforcement official, a representative of the county,
20 a representative of the tribe, if applicable, a representative of each other county
21 agency and, if applicable, tribal agency responsible for providing social services,
22 including services relating to child welfare, mental health, and the Wisconsin Works
23 program, representatives of the departments of corrections and health and family
24 services, a representative from private social services agencies, a representative of
25 substance abuse behavioral health treatment providers, and other members to be

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1 ~~determined by the county or tribe~~ the oversight committee determines are
2 appropriate for the program.

3 **SECTION 25.** 165.95 (5) (b) of the statutes is renumbered 165.95 (5) (ag) and
4 amended to read:

5 165.95 (5) (ag) A county or tribe that receives a grant under this section shall
6 comply with state audits and shall submit an annual report to the department of
7 justice and to the criminal justice oversight committee ~~created under par. (a)~~
8 identified in sub. (3) (cm) regarding ~~the impact of the program on jail and prison~~
9 ~~populations and its progress in attaining the goals specified in sub. (3) (b) and (f).~~

10 **SECTION 26.** 165.95 (5m) of the statutes is repealed.

11 **SECTION 27.** 165.95 (6) of the statutes is amended to read:

12 165.95 (6) A county or tribe may, with one or more other counties or tribes,
13 jointly apply for and receive a grant under this section. Upon submitting a joint
14 application, each county or tribe shall include with the application a written
15 agreement specifying each tribe's and each county department's role in developing,
16 administering, and evaluating the program. The criminal justice oversight
17 ~~committee established under sub. (5) (a)~~ identified in sub. (3) (cm) shall consist of
18 representatives from each county or tribe that participates in the program.

19 **SECTION 28.** 302.43 of the statutes is amended to read:

20 **302.43 Good time.** Every inmate of a county jail is eligible to earn good time
21 in the amount of one-fourth of his or her term for good behavior if sentenced to at
22 least 4 days, but fractions of a day shall be ignored. An inmate shall be given credit
23 for time served prior to sentencing under s. 973.155, including good time under s.
24 973.155 (4). An inmate who violates any law or any regulation of the jail, or neglects
25 or refuses to perform any duty lawfully required of him or her, may be deprived by

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1 the sheriff of good time under this section, except that the sheriff shall not deprive
2 the inmate of more than 2 days good time for any one offense without the approval
3 of the court. An inmate who files an action or special proceeding, including a petition
4 for a common law writ of certiorari, to which s. 807.15 applies shall be deprived of
5 the number of days of good time specified in the court order prepared under s. 807.15
6 (3). This section does not apply to a person who is confined in the county jail in
7 connection with his or her participation in a ~~substance abuse treatment~~ program
8 that meets the requirements of s. 165.95 (3), as determined by the department of
9 justice under s. 165.95 (9) and (10).

10 **SECTION 29.** 950.04 (1v) (g) of the statutes is amended to read:

11 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
12 hearings or court proceedings, as provided under ss. 165.95 (3) (ae) 2. c., 302.113 (9g)
13 (g) 2., 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).

14 **SECTION 30.** 961.472 (5) (b) of the statutes is amended to read:

15 961.472 (5) (b) The person is participating in ~~a~~ an evidence-based substance
16 ~~abuse~~ use disorder treatment program ~~that meets the requirements of s. 165.95 (3),~~
17 ~~as determined by the department of justice under s. 165.95 (9) and (10).~~

18 **SECTION 31.** 967.11 of the statutes is amended to read:

19 **967.11 Alternatives to prosecution and incarceration; monitoring**
20 **participants.** (1) In this section, “approved ~~substance abuse treatment~~ program”
21 means a ~~substance abuse treatment~~ program that meets the requirements of s.
22 165.95 (3), as determined by the department of justice under s. 165.95 (9) and (10).

23 (2) If a county establishes an approved ~~substance abuse treatment~~ program
24 and the approved program authorizes the use of surveillance and monitoring
25 technology or day reporting programs, a court or a district attorney may require a

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1 person participating in an the approved substance abuse treatment program to
2 submit to surveillance and monitoring technology or a day reporting program as a
3 condition of participation.

4 **SECTION 32.** 973.155 (1m) of the statutes is amended to read:

5 973.155 (1m) A convicted offender shall be given credit toward the service of
6 his or her sentence for all days spent in custody as part of a substance abuse
7 treatment program that meets the requirements of s. 165.95 (3), as determined by
8 the department of justice under s. 165.95 (9) and (10), for any offense arising out of
9 the course of conduct that led to the person's placement in that program.

10 **SECTION 33. Nonstatutory provisions.**

11 (1) STUDY AND REPORT BY CRIMINAL JUSTICE COORDINATING COUNCIL. No later than
12 July 1, 2021, the criminal justice coordinating council shall study and report on all
13 of the following:

14 (a) The case load and distribution of criminal cases across the state and the
15 distribution of assistant district attorneys, public defenders, and circuit court
16 judges. The report shall include recommendations for adjustments to the
17 assignment process or distribution of district attorneys, public defenders, and circuit
18 court judges.

19 (b) The impact of treatment courts, deferrals, and diversions on attorney time
20 spent on a case and on the length of time that a case stays open.

21 (c) The recidivism rates of participants in a treatment alternatives and
22 diversion program compared to the recidivism rates of similarly situated individuals
23 who do not participate in a treatment alternatives and diversion program.

24 **SECTION 34. Fiscal changes; alternatives to prosecution and**
25 **incarceration.**

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1 (1) In the schedule under s. 20.005 (3) for the appropriation to the department
2 of justice under s. 20.455 (2) (em), the dollar amount for fiscal year 2020-21 is
3 increased by \$2,000,000 to expand capacity within programs that are funded by
4 grants under s. 165.95 (2) on the effective date of this subsection.

5 (2) In the schedule under s. 20.005 (3) for the appropriation to the department
6 of justice under s. 20.455 (2) (em), the dollar amount for fiscal year 2020-21 is
7 increased by \$1,000,000 to provide grants under s. 165.95 (2) for the creation or
8 expansion of programs that address mental health, mental health courts, or
9 diversion or deferral programs addressing mental health.

10 (3) In the schedule under s. 20.005 (3) for the appropriation to the department
11 of justice under s. 20.455 (2) (em), the dollar amount for fiscal year 2020-21 is
12 increased by \$500,000 to provide grants under s. 165.95 (2) for the creation or
13 expansion of programs that are designed to divert cases before criminal charges are
14 filed.

15 (4) In the schedule under s. 20.005 (3) for the appropriation to the department
16 of justice under s. 20.455 (2) (em), the dollar amount for fiscal year 2020-21 is
17 increased by \$500,000 to provide grants under s. 165.95 (2) for the creation or
18 expansion of programs that are designed to incorporate restorative justice practices
19 into diversion or deferred prosecution programs.

20 (5) In the schedule under s. 20.005 (3) for the appropriation to the department
21 of justice under s. 20.455 (2) (em), the dollar amount for fiscal year 2020-21 is
22 increased by \$5,000,000 to provide grants under s. 165.95 (2) for programs that
23 provide in-patient or out-patient substance use disorder treatment, housing for
24 individuals in recovery, transportation, or transitional jobs.

SECTION 35. Initial applicability.

