



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

FROM: Jessica Ozalp, Staff Attorney

RE: Grants for Treatment Alternatives and Diversion (TAD)

DATE: July 25, 2016

Treatment Alternatives and Diversion (TAD) programs allow district attorneys or judges to offer offenders the opportunity to enter into voluntary substance abuse treatment, case management, and other risk reduction services as alternatives to jail or prison confinement. Such alternatives may be offered to offenders either pre-trial or post-conviction.

The Wisconsin TAD grant program is a partnership of the Department of Justice (DOJ) (as the granting agency), the Department of Health Services (DHS), the Department of Corrections (DOC), and the Office of the Director of State Courts. The program provides grants to counties and tribes to develop treatment and diversion alternatives incarceration for non-violent offenders with substance abuse issues.

Many of the programs currently funded by TAD grants use problem-solving court models, while others use enhanced pre-trial treatment/diversion models, pre-charge diversion, alternatives to revocation, or delayed prosecution models. Regardless of how each county or tribe has chosen to structure its treatment/diversion alternative, all TAD programs provide case management, substance abuse treatment, drug testing, and monitoring.¹

PROBLEM-SOLVING COURTS: BACKGROUND

States across the nation use problem-solving courts to divert offenders from incarceration by deferred prosecution or post-adjudication case processing. These courts provide offenders with treatment, case management, close judicial supervision, and prompt incentives and

¹ More information about the features of TAD programs is available at <https://www.doj.state.wi.us/dci/tad-information>.

sanctions. They have key components in common but may be specialized depending upon the issues presented by the offenders. The major types of problem-solving courts operating in the United States are drug courts, veterans' courts, mental health courts, domestic violence courts, and operating while intoxicated (OWI) courts. Community courts are another type of problem-solving court that focus the offender on providing restitution to the community where the offense occurred, instead of incarcerating the offender.

History of Problem-Solving Courts

Problem-solving courts were first established in the late 1980s, in response to high levels of offender recidivism and crowded prisons and jails. Much of this crowding has been attributed to the 1980s "war on drugs" which focused law enforcement attention on the drug problem, and created more severe sanctions for drug offenses.² A 2009 report by the Wisconsin Department of Corrections verified the impact of drugs and alcohol-related offenses on escalating prison populations. It recommended that the state explore alternatives to incarceration to ease prison overcrowding. The report identified the extent of the increase in prison population from 1990 (7,554) to 2007 (22,690). Also, it found that drug offenders accounted for more than 20% of the prison population growth from 1996 to 2006, and operating while intoxicated (OWI) offenders accounted for more than 60% of the prison population growth from 2001 to 2006.³

Tribal Healing to Wellness Courts

As mentioned above, there are many types of problem-solving courts. One of the types of courts operating in Wisconsin is tribal "healing to wellness" courts. As the name suggests, this is a tribal justice system court that incorporates wellness concepts to address substance abuse issues in a tribal community. The court utilizes a multi-disciplinary team to establish structure and accountability for the offender through supervision, drug testing, treatment services, immediate sanctions and incentives, case management, and community support.

As of June 30, 2012, there were 2,734 problem-solving courts in the United States and 89 of these were tribal healing to wellness courts.⁴

PROBLEM-SOLVING COURT INITIATIVES IN WISCONSIN

In June 1996, Dane County developed Wisconsin's first problem-solving court to address cases involving adult substance abusers. There are now approximately 75 problem-solving courts in Wisconsin, including adult and juvenile drug courts, OWI courts, family dependency treatment courts, mental health courts, tribal healing to wellness courts, veterans' courts, and hybrid courts. This number changes frequently, as more counties develop new problem-solving

² Casey, Pamela M. and Rottman, David B., *Problem-Solving Courts: Models and Trends*, National Center for State Courts, 2003; pages 1 and 6.

³ *Effective Justice Strategies in Wisconsin: A Report of Findings and Recommendations*, National Center for State Courts, 2012, page 37.

⁴ Huddleston, West and Marlowe, Douglas B., *Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Court Programs in the United States*, National Drug Court Institute, Bureau of Justice Assistance, U.S. Department of Justice, July 2011.

courts or expand the types of offenders and offenses adjudicated in existing courts. Implementation and administration of problem-solving courts is conducted primarily at the county level, and the circuit courts are given considerable flexibility to design a court that meets local needs. Drug courts are the most common type of problem-solving court in Wisconsin, making up about half of the total number of problem-solving courts in the state.

Grants for TAD

The TAD grant program funds problem-solving courts as well as other treatment and diversion models. The program was originally funded through the 2005-2007 Biennial Budget Act. Eligible programs serve as alternatives to incarceration for substance-abusing offenders and others needing intensive community-based treatment. For 2017, a total of \$6,038,900 is available to local jurisdictions in Wisconsin to support new or enhanced TAD projects.

Projects funded with TAD grants include pretrial diversion at the initial prosecutorial decision-making stage; problem-solving court projects; and alternatives to revocation based on local needs and project design factors. Permissible uses of TAD grant funds include personnel and fringe benefits, travel and training, consultant expenses, and supplies and operating expenses. An ongoing advisory committee has been created, with representatives from involved state and local agencies and organizations, treatment providers, and consumers.

The TAD grants initially funded adult drug treatment courts in Burnett, Rock, Washburn and Wood Counties, and diversion programs in Dane, Milwaukee, and Washington Counties. In 2012, the DOJ awarded grants to fund TAD initiatives in Ashland and Bayfield Counties that are administered in conjunction with the Red Cliff and Bad River Tribes. In 2013, the Legislature expanded the TAD program, and the DOJ awarded grants to establish drug courts for Columbia, Jefferson, and Waushara Counties and the Lac Du Flambeau Tribe, and to establish diversion programs for Dodge, Eau Claire, Kenosha, Marinette, Pierce, Saint Croix, Trempealeau, Walworth, and Waukesha Counties. In 2014, the TAD program was increased by 300% through increased appropriations in the state budget as well as 2013 Act 197. As a result of this expansion, local TAD programs are now in 35 counties and two tribes in the state.

JEO:jal