



2003 ASSEMBLY BILL 923

March 2, 2004 - Introduced by Representatives BIES, BLACK, FRISKE, GUNDERSON, JESKEWITZ, MILLER, NISCHKE, POCAN, STASKUNAS and TAYLOR, cosponsored by Senators ROESSLER, DARLING, S. FITZGERALD, MOORE, ZIEN and LASSA. Referred to Committee on Corrections and the Courts.

1 **AN ACT to amend** 302.43, 973.032 (6), 973.155 (1) (b) and 973.155 (3); **to repeal**
2 **and recreate** 961.472 (5); and **to create** 16.964 (10), 20.505 (6) (kv), 967.11 and
3 973.155 (1m) of the statutes; **relating to:** grants to counties for providing
4 alternatives to prosecution and incarceration for persons who abuse alcohol or
5 other drugs and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) funds and oversees the Treatment Alternative Program. Through this program, DHFS is required to make grants to enable grantees (who may be county, tribal, or nonprofit agencies) to provide assessments of and treatment for alcohol and other drug abuse, as an alternative to incarceration, to a person who: 1) is involved with the criminal justice system, either as a defendant or as a party to a diversion agreement; or 2) is currently or has previously been determined drug dependent. Current law requires DHFS to distribute the grants so that the program serves people in a variety of geographic locations. Current law also imposes certain requirements regarding: 1) communication between grantees and actors in the criminal justice system; 2) early identification of eligible participants; 3) assessment, referral, treatment, and monitoring procedures; and 4) data collection for program management and evaluation.

This bill establishes a new program, administered by the Office of Justice Assistance (OJA) in collaboration with DHFS and the Department of Corrections,

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that provides grants to county departments which currently provide substance abuse treatment services. Under the program, grants are provided to enable county departments to establish programs that provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. In order for a county department (or a group of county departments applying jointly) to be eligible for a grant, its (or their) program must: 1) meet the needs of people who abuse alcohol or other drugs and who may be or have been charged with or who have been convicted of a crime related to the use or abuse of alcohol or other drugs; 2) be designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families by meeting the comprehensive needs of participants (including needs relating to mental health, employment, stable housing, and family reunification); 3) establish eligibility criteria for participants (which must exclude persons charged with or convicted of a violent offense); 4) be consistent with the best practices in substance abuse and mental health treatment and provide intensive case management through DHFS-certified providers; 5) use graduated sanctions and incentives; 6) integrate all mental health services provided to participants by state and local government agencies and other organizations; 7) require participants to pay a reasonable amount for their treatment, based on their income and available assets; and 8) be developed with input from a variety of specified individuals and agencies. The bill also specifies that a program that meets these requirements (regardless of whether it receives a grant) may entail participants being required to submit to electronic monitoring or participating in a day reporting program as a condition of participation.

Under the bill, a county department for a county with a population of 500,000 or more (currently only Milwaukee County) must apply for a grant, and OJA must award it a grant if its program meets the requirements established under the bill. In selecting other grantees, OJA must give priority to counties that have the largest number of residents in state prisons for crimes or violations of extended supervision, parole, or probation relating to the abuse of alcohol or other drugs.

A county department that receives a grant under the bill must create an oversight committee to advise the county department in administering and evaluating its program. It must also comply with state audits and submit an annual report to OJA regarding the impact of the program on jail and prison populations.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.964 (10) of the statutes is created to read:

2 16.964 (10) (a) In this subsection:

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1 1. "County department" means a county department under s. 51.42 or 51.437
2 that provides substance abuse treatment services.

3 2. "Violent offender" means a person to whom one of the following applies:

4 a. The person has been charged with or convicted of an offense in a pending case
5 and, during the course of the offense, the person carried, possessed, or used a
6 dangerous weapon, the person used force against another person, or a person died
7 or suffered serious bodily harm.

8 b. The person has one or more prior convictions for a felony involving the use
9 or attempted use of force against another person with the intent to cause death or
10 serious bodily harm.

11 (b) The office shall make grants to county departments to enable them to
12 establish and operate programs, including suspended and deferred prosecution
13 programs and programs based on principles of restorative justice, that provide
14 alternatives to prosecution and incarceration for criminal offenders who abuse
15 alcohol or other drugs. The office shall make the grants from the appropriation under
16 s. 20.505 (6) (kv). The office shall collaborate with the departments of corrections and
17 health and family services in establishing this grant program.

18 (c) A county department shall be eligible for a grant under par. (b) if all of the
19 following apply:

20 1. The county department's program is designed to meet the needs of a person
21 who abuses alcohol or other drugs and who may be or has been charged with or who
22 has been convicted of a crime in that county related to the person's use or abuse of
23 alcohol or other drugs.

24 2. The program is designed to promote public safety, reduce prison and jail
25 populations, reduce prosecution and incarceration costs, reduce recidivism, and

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1 improve the welfare of participants' families by meeting the comprehensive needs of
2 participants.

3 3. The program establishes eligibility criteria for a person's participation. The
4 criteria shall specify that a violent offender is not eligible to participate in the
5 program.

6 4. The program is consistent with the best practices in substance abuse and
7 mental health treatment and provides intensive case management.

8 5. The program uses graduated sanctions and incentives to promote successful
9 substance abuse treatment.

10 6. The program provides holistic treatment to its participants and provides
11 them services that may be needed, as determined under the program, to eliminate
12 or reduce their use of alcohol or other drugs, improve their mental health, facilitate
13 their gainful employment or enhanced education or training, provide them stable
14 housing, facilitate family reunification, ensure payment of child support, and
15 achieve other objectives selected under subd. 10.

16 7. The program is designed to integrate all mental health services provided to
17 program participants by state and local government agencies and other
18 organizations. The program shall require regular communication between a
19 participant's substance abuse treatment providers and any probation, extended
20 supervision, and parole agent assigned to the participant.

21 8. The program provides substance abuse and mental health treatment
22 services through providers that are certified by the department of health and family
23 services.

24 9. The program requires participants to pay a reasonable amount for their
25 treatment, based on their income and available assets.

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1 10. The program is developed with input from one or more circuit court judges,
2 the district attorney, the state public defender, local law enforcement officials, the
3 county department, other county agencies responsible for providing social services,
4 including services relating to child welfare, mental health, and the Wisconsin works
5 program, the departments of corrections and health and family services, private
6 social services agencies, and substance abuse treatment providers.

7 11. The county department complies with other eligibility requirements
8 established by the office to promote the objectives listed in subs. 1. and 2.

9 (d) A county department for a county with a population of 500,000 or more shall
10 apply for a grant from the office under par. (b). After ensuring that the county
11 department's program meets the requirements of par. (c), the office shall award the
12 county department a grant under par. (a).

13 (e) In selecting among competing grant proposals from county departments
14 other than a county department applying under par. (d), the office shall give priority
15 to counties that have the largest number of residents in state prisons as a result of
16 crimes or violations of extended supervision, parole, or probation relating to the
17 abuse of alcohol or other drugs.

18 (f) 1. A county department that receives a grant under this subsection shall
19 create an oversight committee to advise the county department in administering and
20 evaluating its program. Each committee shall consist of a circuit court judge, the
21 district attorney or his or her designee, the state public defender or his or her
22 designee, a local law enforcement official, a representative of the county department,
23 a representative of each other county agency responsible for providing social
24 services, including services relating to child welfare, mental health, and the
25 Wisconsin works program, representatives of the departments of corrections and

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1 health and family services, a representative from private social services agencies, a
2 representative of substance abuse treatment providers, and other members to be
3 determined by the county department.

4 2. A county department that receives a grant under this subsection shall
5 comply with state audits and shall submit an annual report to the office regarding
6 the impact of the program on jail and prison populations.

7 (g) Two or more county departments may jointly apply for and receive a grant
8 under this subsection. If county departments submit a joint application, they shall
9 include with their application a written agreement specifying each county
10 department's role in developing, administering, and evaluating the program. The
11 oversight committee established under par. (c) shall consist of representatives from
12 each county department.

13 (h) The office shall assist a county department receiving grants under this
14 subsection in obtaining funding from other sources for its program.

15 (i) The office shall inform any county department that is applying for a grant
16 under this subsection whether the county department meets the requirements
17 established under par. (c), regardless of whether the county department receives a
18 grant.

19 **SECTION 2.** 20.505 (6) (kv) of the statutes is created to read:

20 20.505 (6) (kv) *Grants for substance abuse treatment programs for criminal*
21 *offenders.* All moneys received from the departments of corrections and health and
22 family services that are provided to enable the office to make grants to counties under
23 s. 16.964 (10) for the purpose of making such grants.

24 **SECTION 3.** 302.43 of the statutes is amended to read:

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1 **302.43 Good time.** Every inmate of a county jail is eligible to earn good time
2 in the amount of one-fourth of his or her term for good behavior if sentenced to at
3 least 4 days, but fractions of a day shall be ignored. An inmate shall be given credit
4 for time served prior to sentencing under s. 973.155, including good time under s.
5 973.155 (4). An inmate who violates any law or any regulation of the jail, or neglects
6 or refuses to perform any duty lawfully required of him or her, may be deprived by
7 the sheriff of good time under this section, except that the sheriff shall not deprive
8 the inmate of more than 2 days good time for any one offense without the approval
9 of the court. An inmate who files an action or special proceeding, including a petition
10 for a common law writ of certiorari, to which s. 807.15 applies shall be deprived of
11 the number of days of good time specified in the court order prepared under s. 807.15
12 (3). This section does not apply to a person who is confined in the county jail in
13 connection with his or her participation in a substance abuse treatment program
14 that meets the requirements of s. 16.964 (10) (c), as determined by the office of justice
15 assistance under s. 16.964 (10) (i).

16 **SECTION 4.** 961.472 (5) of the statutes is repealed and recreated to read:

17 961.472 (5) The court is not required to enter an order under sub. (2) if any of
18 the following applies:

19 (a) The court finds that the person is already covered by or has recently
20 completed an assessment under this section or a substantially similar assessment.

21 (b) The person is participating in a substance abuse treatment program that
22 meets the requirements of s. 16.964 (10) (c), as determined by the office of justice
23 assistance under s. 16.964 (10) (i).

24 **SECTION 5.** 967.11 of the statutes is created to read:

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1 **967.11 Alternatives to prosecution and incarceration; monitoring**
2 **participants. (1)** In this section, “approved substance abuse treatment program”
3 means a substance abuse treatment program that meets the requirements of s.
4 16.964 (10) (c), as determined by the office of justice assistance under s. 16.964 (10)
5 (i).

6 **(2)** If a county department establishes an approved substance abuse treatment
7 program and the program authorizes the use of electronic monitoring or day
8 reporting programs, a court or a district attorney may require a person participating
9 in an approved substance abuse treatment program to submit to electronic
10 monitoring or to participate in a day reporting program as a condition of
11 participation.

12 **SECTION 6.** 973.032 (6) of the statutes is amended to read:

13 973.032 **(6)** CREDIT. Any sentence credit under s. 973.155 (1) or (1m) applies
14 toward service of the period under sub. (3) (a) but does not apply toward service of
15 the period under sub. (3) (b).

16 **SECTION 7.** 973.155 (1) (b) of the statutes is amended to read:

17 973.155 **(1)** (b) The categories in par. (a) and sub. (1m) include custody of the
18 convicted offender which is in whole or in part the result of a probation, extended
19 supervision or parole hold under s. 302.113 (8m), 302.114 (8m), 304.06 (3), or 973.10
20 (2) placed upon the person for the same course of conduct as that resulting in the new
21 conviction.

22 **SECTION 8.** 973.155 (1m) of the statutes is created to read:

23 973.155 **(1m)** A convicted offender shall be given credit toward the service of
24 his or her sentence for all days spent in custody as part of a substance abuse
25 treatment program that meets the requirements of s. 16.964 (10) (c), as determined

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1 by the office of justice assistance under s. 16.964 (10) (i) for any offense arising out
2 of the course of conduct that led to the person's placement in that program.

3 **SECTION 9.** 973.155 (3) of the statutes is amended to read:

4 973.155 (3) The credit provided in sub. (1) or (1m) shall be computed as if the
5 convicted offender had served such time in the institution to which he or she has been
6 sentenced.

7 (END)