



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5208/1
EAW:amn

2021 SENATE BILL 791

December 17, 2021 - Introduced by Senators JACQUE, RINGHAND, CARPENTER, JOHNSON, LARSON, MARKLEIN, ROYS, WIRCH and BALLWEG, cosponsored by Representatives TITTL, GOYKE, ANDRACA, ARMSTRONG, BOWEN, BROSTOFF, CONLEY, CONSIDINE, EMERSON, HEBL, KRUG, KURTZ, MILROY, MURPHY, MURSAU, NEUBAUER, NOVAK, POPE, RIEMER, J. RODRIGUEZ, SCHRAA, SHANKLAND, SHELTON, SINICKI, SNYDER, SPIROS, SPREITZER, STEFFEN, STUBBS, VINING, VRUWINK and WICHGERS. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 20.455 (2) (em) (title), 165.95 (title), 165.95 (2), 165.95 (3) (a),
2 165.95 (3) (d), 165.95 (3) (e), 165.95 (3) (g), 165.95 (3) (h), 165.95 (3) (j), 165.95
3 (5) (a), 302.43, 967.11 (1), 967.11 (2) and 973.155 (1m); and *to create* 165.95 (1)
4 (ae) of the statutes; **relating to:** expanding the treatment alternatives and
5 diversion programs.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Justice, in collaboration with the Department of Corrections and the Department of Health Services, awards grants to counties and tribes that have established qualifying treatment alternatives and diversion (TAD) programs that offer alcohol or drug treatment services as alternatives to prosecution or incarceration in order to reduce recidivism, promote public safety, and reduce prison and jail populations.

Under the bill, a program funded by a TAD grant need not focus solely on alcohol and other drug treatment, but may provide treatment programs for a person who has any mental illness.

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:

SENATE BILL 791**SECTION 1**

1 **SECTION 1.** 20.455 (2) (em) (title) of the statutes is amended to read:

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

4 **SECTION 2.** 165.95 (title) of the statutes is amended to read:

5 **165.95** (title) **Alternatives to prosecution and incarceration; grant**
6 **program.**

7 **SECTION 3.** 165.95 (1) (ae) of the statutes is created to read:

8 165.95 (1) (ae) “Mental illness” has the meaning given in s. 51.01 (13) (a).

9 **SECTION 4.** 165.95 (2) of the statutes is amended to read:

10 165.95 (2) The department of justice shall make grants to counties and to tribes
11 to enable them to establish and operate programs, including suspended and deferred
12 prosecution programs and programs based on principles of restorative justice, that
13 provide alternatives to prosecution and incarceration for criminal offenders who
14 ~~abuse alcohol or other drugs~~ have a substance use disorder or mental illness. The
15 department of justice shall make the grants from the appropriations under s. 20.455
16 (2) (ek), (em), (jd), (kn), and (kv). The department of justice shall collaborate with
17 the departments of corrections and health and family services in establishing this
18 grant program.

19 **SECTION 5.** 165.95 (3) (a) of the statutes is amended to read:

20 165.95 (3) (a) The county’s or tribe’s program is designed to meet the needs of
21 a person who ~~abuses alcohol or other drugs~~ has a substance use disorder or mental
22 illness and who may be or has been charged with or who has been convicted of a crime
23 in that county related to the person’s ~~use or abuse of alcohol or other drugs~~ substance
24 use disorder or mental illness.

25 **SECTION 6.** 165.95 (3) (d) of the statutes is amended to read:

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1 165.95 (3) (d) Services provided under the program are consistent with
2 evidence-based practices in substance ~~abuse~~ use disorder and mental health
3 treatment, as determined by the department of health services, and the program
4 provides intensive case management.

5 **SECTION 7.** 165.95 (3) (e) of the statutes is amended to read:

6 165.95 (3) (e) The program uses graduated sanctions and incentives to promote
7 successful substance ~~abuse~~ use disorder and mental health treatment.

8 **SECTION 8.** 165.95 (3) (g) of the statutes is amended to read:

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

16 **SECTION 9.** 165.95 (3) (h) of the statutes is amended to read:

17 165.95 (3) (h) The program provides substance ~~abuse~~ use disorder and mental
18 health treatment services through providers that are certified by the department of
19 health services.

20 **SECTION 10.** 165.95 (3) (j) of the statutes is amended to read:

21 165.95 (3) (j) The program is developed with input from, and implemented in
22 collaboration with, one or more circuit court judges, the district attorney, the state
23 public defender, local and, if applicable, tribal law enforcement officials, county
24 agencies and, if applicable, tribal agencies responsible for providing social services,
25 including services relating to alcohol and other drug addiction, child welfare, mental

SENATE BILL 791**SECTION 10**

1 health, and the Wisconsin Works program, the departments of corrections, children
2 and families, and health services, private social services agencies, and substance
3 ~~abuse~~ use disorder and mental health treatment providers.

4 **SECTION 11.** 165.95 (5) (a) of the statutes is amended to read:

5 165.95 (5) (a) A county or tribe that receives a grant under this section shall
6 create an oversight committee to advise the county or tribe in administering and
7 evaluating its program. Each committee shall consist of a circuit court judge, the
8 district attorney or his or her designee, the state public defender or his or her
9 designee, a local law enforcement official, a representative of the county, a
10 representative of the tribe, if applicable, a representative of each other county agency
11 and, if applicable, tribal agency responsible for providing social services, including
12 services relating to child welfare, mental health, and the Wisconsin Works program,
13 representatives of the department of corrections and department of health services,
14 a representative from private social services agencies, a representative of substance
15 ~~abuse~~ use disorder and mental health treatment providers, and other members to be
16 determined by the county or tribe.

17 **SECTION 12.** 302.43 of the statutes is amended to read:

18 **302.43 Good time.** Every inmate of a county jail is eligible to earn good time
19 in the amount of one-fourth of his or her term for good behavior if sentenced to at
20 least 4 days, but fractions of a day shall be ignored. An inmate shall be given credit
21 for time served prior to sentencing under s. 973.155, including good time under s.
22 973.155 (4). An inmate who violates any law or any regulation of the jail, or neglects
23 or refuses to perform any duty lawfully required of him or her, may be deprived by
24 the sheriff of good time under this section, except that the sheriff shall not deprive
25 the inmate of more than 2 days good time for any one offense without the approval

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1 of the court. An inmate who files an action or special proceeding, including a petition
2 for a common law writ of certiorari, to which s. 807.15 applies shall be deprived of
3 the number of days of good time specified in the court order prepared under s. 807.15
4 (3). This section does not apply to a person who is confined in the county jail in
5 connection with his or her participation in a ~~substance abuse treatment~~ program
6 that meets the requirements of s. 165.95 (3), as determined by the department of
7 justice under s. 165.95 (9) and (10).

8 **SECTION 13.** 967.11 (1) of the statutes is amended to read:

9 967.11 (1) In this section, “~~approved substance abuse treatment~~ program”
10 means a ~~substance abuse treatment~~ program that meets the requirements of s.
11 165.95 (3), as determined by the department of justice under s. 165.95 (9) and (10).

12 **SECTION 14.** 967.11 (2) of the statutes is amended to read:

13 967.11 (2) If a county establishes an approved ~~substance abuse treatment~~
14 program and the approved program authorizes the use of surveillance and
15 monitoring technology or day reporting programs, a court or a district attorney may
16 require a person participating in an the approved ~~substance abuse treatment~~
17 program to submit to surveillance and monitoring technology or a day reporting
18 program as a condition of participation.

19 **SECTION 15.** 973.155 (1m) of the statutes is amended to read:

20 973.155 (1m) A convicted offender shall be given credit toward the service of
21 his or her sentence for all days spent in custody as part of a ~~substance abuse~~
22 ~~treatment~~ program that meets the requirements of s. 165.95 (3), as determined by
23 the department of justice under s. 165.95 (9) and (10), for any offense arising out of
24 the course of conduct that led to the person’s placement in that program.

25 **SECTION 16. Effective date.**

