



Legislative Fiscal Bureau

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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 457: Expansion of Treatment and Alternatives Diversion Program for Individuals Diagnosed with Mental Illness

Assembly Bill 457 (AB 457) was introduced on October 18, 2013, and referred to the Assembly Committee on Criminal Justice. The provisions of AB 457 would expand the Treatment and Alternatives Diversion (TAD) program at the Department of Justice (DOJ) to permit counties receiving TAD funding to also provide services to individuals diagnosed with a mental illness. Under the bill, as introduced, DOJ would be provided an additional \$750,000 GPR for the TAD program for the first year of the fiscal biennium in which the bill would take effect.

On October 31, 2013, Assembly Amendment 1 (AA 1) to AB 457 was adopted by the Assembly Committee on Criminal Justice on a vote of 7-0, and AB 457 was subsequently recommended for passage, as amended by AA 1, on an identical vote of 7-0. Assembly Bill 457, as amended, was referred to the Joint Committee on Finance on October 31, 2013.

On November 6, 2013, the bill was withdrawn from the Joint Committee on Finance and referred to the Assembly Committee on Rules. On November 7, 2013, the Assembly Committee on Rules placed AB 457 on the November 12, 2013, Assembly calendar. On November 12, 2013, the Assembly adopted AA 1 to AB 457, and AB 457 as amended was read a third time and passed 94-0.

On November 12, 2013, AB 457 was ordered immediately messaged to the Senate. On November 14, 2013, the bill was read the first time and referred to the Joint Committee on Finance.

BACKGROUND

The TAD program provides grants to counties to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who

abuse alcohol or other drugs. In 2012-13, base funding for the program in the Department of Administration's, Office of Justice Assistance (OJA) included: (a) \$1,038,900 PR in annual grant funding supported by the justice information system surcharge; and (b) \$112,000 PR and 0.6 PR positions (\$65,000 PR in penalty surcharge funding, \$39,500 in justice information system surcharge funding and \$7,500 in drug abuse program improvement surcharge and drug offender diversion surcharge funding). The base grant funding of \$1,038,900 PR has been utilized to support seven county-based TAD projects.

Under 2013 Act 20 (the 2013-15 biennial budget act), OJA was eliminated and many of its functions (including TAD) transferred to DOJ. Act 20 also provided an additional \$1,000,000 GPR annually in grant funding for the TAD program under DOJ.

In addition to expanding the TAD program under Act 20, Act 20 also created the county drug court grant program under DOJ and provided \$500,000 GPR annually in grant funding to the program. The county drug court grant program provides grant funding to counties to establish and operate drug courts. The Department of Justice may only provide this grant funding to counties that have not established drug courts.

SUMMARY OF BILL

Under current law, a county TAD program must be designed to meet the needs of a person who abuses alcohol or other drugs and may be or has been charged with or convicted of a crime in that county related to the individual's use or abuse of alcohol or other drugs. Under AB 457, a county TAD program could also be designed to meet the needs of an individual diagnosed with a mental illness who may be or has been charged with or convicted of a crime in that county related to his or her mental illness.

Under AB 457, the TAD GPR annual appropriation would be provided an additional \$750,000 for the first fiscal year of the fiscal biennium in which the bill would take effect to provide grants for counties that establish alternatives to prosecution and incarceration for persons with mental illness. As the funds would be provided in the first year of the fiscal biennium, the funding would represent one-time funding because funding for the 2015-17 biennium is based on funding in 2014-15.

Under AB 457, DOJ would be required to allocate at least \$750,000 GPR for grants to counties with programs that established alternatives to prosecution and incarceration for persons with mental illness. However, the bill does not specify whether this level of funding would be allocated on a one-time or on-going basis. If this level of funding for programming for individuals with mental illness was required on an ongoing basis, but only one-time funding for this programming was provided under AB 457, then base TAD resources currently utilized for drug abuse programming would have to be reallocated for mental illness programming. Finally, AB 457 does not directly address whether this funding would be utilized exclusively for persons with mental illness, or whether a county could qualify for this grant funding provided that its TAD program was also available for persons with mental illness.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 makes the following changes to the bill:

2013-15 Funding. Instead of providing \$750,000 GPR in additional funding for the first year of the fiscal biennium in which the bill would take effect, under AA 1, \$375,000 GPR would be provided in each fiscal year of the biennium for grant funding to counties. As a result, funding would be reduced by \$375,000 in the first year of the fiscal biennium and increased by \$375,000 in the second year of the fiscal biennium. Further, as a result of this change, the bill, as amended, would increase the base funding for the TAD program by \$375,000 GPR annually, as funding for the 2015-17 biennium is based on funding in 2014-15. Further, AA 1 would provide that, notwithstanding the annual nature of the TAD GPR annual appropriation to which the funding would be provided under the amendment, on a one-time basis any of the \$375,000 in expenditure authority provided to the appropriation in 2013-14, that remained unobligated at the end of 2013-14, could be carried forward and utilized in 2014-15.

Required Allocations for Programming for Individuals Diagnosed with a Mental Illness. Under the bill, as introduced, DOJ would be required to allocate at least \$750,000 GPR in grant funding to counties with programs that established alternatives to prosecution and incarceration for persons diagnosed with mental illness. The provisions of AA 1 would instead require that DOJ allocate at least \$375,000 GPR annually to programming that meets the needs of persons diagnosed with a mental illness. The amendment would require that at least \$375,000 GPR annually be utilized exclusively for programming that meets the needs of persons diagnosed with a mental illness.

FISCAL EFFECT

The provisions of AB 457, as introduced, would provide \$750,000 GPR for the first fiscal year of the fiscal biennium in which the bill would take effect to provide grants for counties that establish alternatives to prosecution and incarceration for persons with mental illness. In contrast, under AA 1 to AB 457, \$375,000 GPR would be provided in each year of the fiscal biennium to provide programming for persons diagnosed with a mental illness.

In order to administer the expanded TAD program (\$1,000,000 GPR annually in additional grant funding) and the new county drug court grant program (\$500,000 GPR annually in grant funding) under Act 20, as well as carry out any further TAD expansion under AB 457 (\$375,000 GPR annually under AB 457, as amended), DOJ estimates that it would need an additional 1.0 program and policy analyst-advanced with first year salary, fringe, supplies and other costs of \$81,800, as well as a 0.5 research analyst with first year salary, fringe, supplies and other costs of \$35,400. The Department indicates that the program and policy analyst would administer the expansion of the program created by AB 457, while the research analyst would "establish and maintain program efficacy and better inform future program decisions by policy makers."

The Department of Justice indicates that if resources were to be provided to address only its administrative resource needs as it relates to AB 457, as introduced, the Department would need 1.0 FTE program and policy analyst-advanced position with first year salary, fringe, supplies and

other costs of \$81,800, to administer five to seven new grant programs. Under AB 457, as amended, with additional grant funding of \$375,000 annually, DOJ would more likely administer two to three new grant programs. Neither AB 457, as introduced, nor the bill passed by the Assembly, would provide any administrative funding.

Prepared by: Paul Onsager