



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #127

Treatment, Alternatives and Diversion Program (DOA -- Justice Information System Surcharge)

[LFB 2011-13 Budget Summary: Page 36, #1 and Page 42, #8]

CURRENT LAW

The treatment, alternatives and diversion (TAD) grant program under the Department of Administration's Office of Justice Assistance (OJA) is intended to provide 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. Base grant funding for the program totals \$705,000 PR annually funded from the justice information system surcharge.

An additional \$7,500 PR annually in base funding is available to fund Department of Corrections' evaluations of the TAD program as provided under statute. Revenue for these program evaluations comes from the \$10 drug offender diversion surcharge. The surcharge is imposed on property crime convictions under Chapter 943 of the statutes.

The Office of Justice Assistance, in collaboration with the Departments of Corrections and Health Services, is required to submit a report to the Legislature by December 31, 2011, regarding savings that have been generated through the implementation of the grant program. The report must include recommendations regarding how the grant program should be structured in the future.

GOVERNOR

Provide an additional \$110,000 PR annually in justice information system surcharge funding to provide additional resources for the TAD program, including \$65,000 for program administration and \$45,000 for the evaluation of the program as required by state statute. Unlike base funding which is provided as local assistance funding, provide the additional expenditure authority as supplies and services funding.

Reduce expenditure authority to the program by \$70,500 PR annually associated with a 10% budget reduction. The reduction would be applied to supplies and services funding. As a result, the TAD program would realize a net increase of \$39,500 PR annually in supplies and services funding for program administration and program evaluation costs. Under the bill, the TAD program would be appropriated \$744,500 PR annually.

Further, provide that any county receiving a grant under the TAD program on or after January 1, 2012, must provide matching funds equal to 25% of the amount of the grant.

DISCUSSION POINTS

1. Under state statute, a county TAD program must: (a) be designed to meet the needs of a person who abuses alcohol or other drugs and who may be or has been charged with or who has been convicted of a crime in that county related to the person's use or abuse of alcohol or other drugs; (b) 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; (c) establish eligibility criteria for a person's participation (a violent offender is not eligible to participate in the program); (d) provide services that are consistent with evidence-based practices in substance abuse and mental health treatment; (e) provide intensive case management; (f) use graduated sanctions and incentives to promote successful substance abuse treatment; (g) provide holistic treatment to its participants and provide them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court-ordered obligations; and (h) be designed to integrate all mental health services provided to program participants by state and local government agencies and other organizations. For 2010-11, the following counties have received TAD grants totaling \$705,000 PR funded from the justice information system surcharge: (a) Burnett and Washburn Counties, \$140,477; (b) Dane County, \$154,427; (c) Rock County, \$147,908; (d) Washington County, \$123,513; and (e) Wood County, \$138,675.

2. Administration staff indicates that the net \$39,500 PR in supplies and services funding that would be provided under the bill is not sufficient funding to either administer or evaluate the TAD program. The evaluation costs for the program are currently split between OJA, the Department of Corrections, and the Department of Health Services. "Until final budgets are known for each of the agencies, it is ... unclear how much each partner agency can contribute to ongoing evaluation costs. Funding the evaluation is a priority of the OJA funds, but again, until each partner agency knows its final budget, it is unclear how much of the \$39,500 will need to be used for the evaluation, with remaining funding utilized by OJA for administrative costs."

3. In order to ensure there is funding to evaluate the impact of county TAD programs supported by surcharge revenue, the Committee could approve the Governor's recommendation to provide a net \$39,500 PR annually in supplies and services funding to the TAD program. [Alternative 1] This may be particularly timely as OJA must submit a report to the Legislature by December 31, 2011, identifying: (a) savings that have been generated through the implementation of the grant program; and (b) recommendations regarding how the grant program should be structured in the future.

4. Alternatively, the Committee could elect to delete the funding. Under this alternative, no additional funding would be provided to OJA to administer or evaluate the program. [Alternative 2] When the Legislature created the TAD program it did not provide funding to OJA for administration. As a result, administrative funding for the program had to be identified from base resources. This alternative would again require OJA to utilize base resources to administer the program. Under current law, OJA is budgeted \$7,500 PR annually in expenditure authority to fund Corrections' evaluations of the program. Administration staff indicates, however, that this funding is insufficient to cover the actual cost of program evaluations.

5. Under the bill, the Governor also recommends requiring any county receiving a grant under the TAD program on or after January 1, 2012, to provide matching funds equal to 25% of the amount of the grant. The intent of the recommendation is to reduce the state-funded grants to current county TAD program by a corresponding 25% which would then permit OJA to make TAD grants to additional counties. As a means to identify funding for additional county TAD programs, the Committee could consider adopting the Governor's recommendation. [Alternative 1]

6. However, concerns could be raised that under the current budget counties may have a difficult time identifying match funding to remain in the TAD program due to the combined impact of reductions in state aids to counties and levy limits. In addition, concerns could be raised as to whether the changed program requirements would lead counties to choose to not participate in the program. "Without background or experience in how counties will react to the proposed budget and their calculus as to cost/benefits of these projects, OJA is unsure if they will be able to find another interested applicant." Based on these concerns, the Committee could elect to delete the requirement that any county receiving a grant under the TAD program on or after January 1, 2012, provide matching funds equal to 25% of the amount of the grant. [Alternative 3]

7. Under state law, program revenue accounts may not operate in deficit. Under s. 16.40(7) of the statutes, DOA is required to collect from any available source and correlate information concerning any and all anticipated state revenues, including program revenues. Under s. 16.513 of the statutes, if DOA projects there are insufficient moneys, assets, or accounts receivable to cover expenditures under a program revenue appropriation(s), the affected agencies must propose and submit to DOA a plan to assure that there are sufficient moneys, assets, or accounts receivable to meet projected expenditures under the appropriation(s). Any such plans approved by DOA must be forwarded to the Joint Committee on Finance for its approval under 14-day passive review.

8. The TAD program was created under the 2005-07 biennial budget act. For the 2005-07 and 2007-09 biennia, the TAD program was funded from the \$10 drug offender diversion surcharge which is assessed for property crime convictions under Chapter 943 of the statutes. Program expenditures for TAD exceeded program revenues from the \$10 drug offender diversion surcharge leading the program to operate in deficit. Under 2009 Act 28, the grant funding for the program was switched to the justice information system surcharge. However, the deficit in the \$10 drug offender diversion surcharge fund remained. In addition, OJA retained \$7,500 annually in expenditure authority funded from the \$10 drug offender diversion surcharge to fund Department of Corrections' evaluations of the TAD program.

9. The administration estimates that the \$10 drug offender diversion surcharge fund will conclude the current biennium with a deficit of \$1,998,100. They further estimate that the fund

will conclude the 2011-13 biennium with a deficit of \$1,917,900.

10. The Committee could direct the Department of Administration to submit a plan to the Joint Committee on Finance under s. 13.10 as to how it would reduce state appropriations by \$1,917,900 over the biennium and lapse the associated funding to the general fund to eliminate the deficit in the \$10 drug offender diversion surcharge fund. [Alternative 4] Finally, the Committee could also provide that notwithstanding s. 16.513 of the statutes, DOA would not be required to submit a plan to the Joint Committee on Finance during the 2011-13 biennium to address the deficit in the \$10 drug offender diversion surcharge fund. [Alternative 5]

11. Under the *Justice Information System Surcharge Overview Paper #120*, the Committee could select Alternative 2. [This alternative would delete the recommendation in the bill to alter the allocation mechanism for justice information system surcharge revenue, reduce the surcharge from \$21.50 to \$14.50, and would again limit the functions funded from the surcharge to justice information systems at DOA and the courts, and deposit \$1 from every assessed surcharge to the general fund. The Committee could select this alternative to primarily restrict the fund to supporting justice information systems.] Nonetheless, in conjunction with this alternative, the Committee could elect to maintain the current law allocation mechanism for funding the TAD program with justice information system surcharge revenue, and continue to fund the TAD program from an additional \$1.50 from every assessed justice information system surcharge. Under this alternative, the revenue would continue to be deposited to the current law PR annual TAD appropriation funded by the justice information system surcharge. The appropriation would be provided \$744,500 PR annually in expenditure authority. [Alternative 7] This alternative would need to be selected to continue to fund the TAD program with justice information system surcharge revenue if Alternative 2 is selected in *Justice Information System Surcharge Overview Paper #120*.

12. If the Committee wished to again limit the justice information system surcharge to funding justice information systems, the Committee could create a GPR annual TAD appropriation to provide funding for the TAD program. Under this alternative, the Committee would delete the PR annual TAD appropriation supported by the justice information system surcharge and its associated expenditure authority of \$744,500 PR annually. The new GPR annual TAD appropriation would be provided offsetting funding of \$744,500 GPR annually. [Alternative 6]

ALTERNATIVES

1. Approve the Governor's recommendation to provide an additional \$110,000 PR annually in justice information system surcharge funding to provide additional resources for the treatment, alternatives and diversion (TAD) program, including \$65,000 for program administration and \$45,000 for the evaluation of the program as required by state statute.

Reduce expenditure authority to the program by \$70,500 PR annually associated with a 10% budget reduction. The reduction would be applied to supplies and services funding. As a result, the TAD program would see a net increase of \$39,500 PR annually in supplies and services funding for program administration and program evaluation costs.

Further, provide that any county receiving a grant under the TAD program on or after January 1, 2012, must provide matching funds equal to 25% of the amount of the grant.

2. Delete \$39,500 PR annually in supplies and services funding provided to the TAD program for administration and evaluation costs.

ALT 2	Change to Bill Funding	
PR	-	\$79,000

3. Delete the requirement that any county receiving a grant under the TAD program on or after January 1, 2012, must provide matching funds equal to 25% of the amount of the grant.

4. Direct the Department of Administration to submit a plan to the Joint Committee on Finance under s. 13.10 of the statutes as to how it will reduce state appropriations by \$1,917,900 over the biennium and lapse the associated funding to the general fund to eliminate the deficit in the \$10 drug offender diversion surcharge fund.

5. Provide that notwithstanding s. 16.513 of the statutes, the Department of Administration is not required to submit a plan to the Joint Committee on Finance during the 2011-13 biennium to address the deficit in the \$10 drug offender diversion surcharge fund.

6. Delete the PR annual TAD appropriation supported by the justice information system surcharge and its associated expenditure authority of \$744,500 PR annually. Create a GPR annual treatment, alternatives and diversion appropriation and provide \$744,500 GPR annually to the appropriation.

ALT 6	Change to Bill Funding	
GPR	\$	1,489,000
PR	-	<u>1,489,000</u>
Total		\$0

7. Maintain the current law allocation mechanism to fund the TAD program from justice information system surcharge revenue which provides that \$1.50 from every assessed justice information system surcharge is allocated to OJA for the TAD program. Under this alternative, the revenue would continue to be deposited to the current law PR annual TAD appropriation. The appropriation would be provided \$744,500 PR annually in expenditure authority.

ALT 7	Change to Bill	
	Revenue	Funding
PR	\$2,100,000	\$1,489,000

Prepared by: Paul Onsager