



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #457

Nonviolent Offender Treatment Diversion Pilot Program Expansion (Justice)

[LFB 2019-21 Budget Summary: Page 252, #5]

CURRENT LAW

Under 2017 Act 32, an appropriation was created for a diversion pilot program to divert nonviolent offenders to a treatment option. The Act provided \$261,000 GPR for 2017-18 and \$261,000 GPR for 2018-19 for the diversion pilot program and repealed the appropriation on July 1, 2019. In 2018, the Department of Justice (DOJ) selected three sites for the pilot: (a) Superior Police Department; (b) Sauk Prairie Police Department; and (c) Door County Sherriff's Department.

BUDGET BILL

Provide \$511,000 GPR annually in one-time funding to continue and expand the Nonviolent Offender Treatment Diversion Pilot Program created under 2017 Act 32. Repeal the appropriation is as of July 1, 2021.

DISCUSSION POINTS

1. A pre-booking diversion program diverts individuals before any criminal charges are referred to a District Attorney (DA). This strategy is also known as deflection. Individuals can refer themselves to a program or law enforcement can offer the diversion program as an alternative to referring a case to a DA. Existing programming under the Treatment Alternative Diversion Program (TAD) draws participants post-charging by a DA, but either before or after a guilty plea. A drug court typically takes participants after charging and a guilty plea. The administration indicates that drawing individuals from the law enforcement stage of the criminal justice system can result in savings to the counties and state by only involving the circuit court system if a participant's treatment is

unsuccessful.

2. Act 32 initially placed funding in the Committee's appropriation, and provided that monies could be released under a 14 day passive review process once DOJ provided a plan proposal for the program. After examining other diversion programming across the nation, including the Madison Addiction Recovery Initiative (MARI), DOJ submitted a plan proposal. Funding was released on February 6, 2018, applications were requested by June 19, 2018, and grant awards made to three pilot sites soon afterwards. After receiving funding, the three selected sites combined a portion of awarded resources to bring in a national expert on diversion programs to provide training and expertise.

3. At these three sites, prospective participants are either self or law enforcement referred to programming. Once referred to the program, the participants are assessed using the proxy assessment tool. Prospective participants who are low to moderate risk are admitted to the program and assigned to a caseworker. The participant must then complete AODA treatment based on the individual's needs, which may take six to twelve months (TAD programming is typically longer). Like TAD, the capacity of the diversion program is based in part on the local community based treatment network. If the participant successfully completes treatment, any citations are dismissed. If the participant is not successful, charges are referred to the DA's office. After one year of funding and project implementation, the specific progress for each site as noted by DOJ is as follows:

- The Superior Police Department's (PD) program is fully operational and the program has 32 participants. The program's referral process is implemented and the program is working on clarifying and improving their screening process to include an assessment for risk level.
- The Sauk County program is fully operational and has had 48 referrals. As of April, 2019, there were five active participants, seven pending referrals, and two participants have had charges deferred. The county is working with Sauk Prairie PD and Baraboo PD in the county.
- Door County officially started their program, in January, 2019. A pilot group of Sheriff's Department deputies were trained and the remainder of the Sheriff's Department deputies and the Sturgeon Bay PD were trained in March, 2019. As of April, 2019, the program has had four referrals and four participants.

4. The administration indicates that \$261,000 annually would be provided on a one-time for existing programs and \$250,000 annually would be used to expand the program to first-class cities (Milwaukee). The administration states that "providing additional funding will increase treatment and diversion options at the initial law enforcement decision point in additional Wisconsin jurisdictions and allows the state to report outcome and return-on-investment data on a wider and more diverse data set." The administration indicates that a pre-booking diversion program may save costs and time associated with charging a person.

5. Since the programs are still in the pilot phase, one-time funding may be appropriate. Given the identified potential benefits associated with programming for treatment opportunities at the pre-booking stage, the Committee could provide funding to pre-booking diversion programs and extend funding to cities of the first class. [Alternative 1] This alternative would result in \$511,000

GPR annually during the 2019-21 biennium only for the pre-booking diversion program.

6. In 2018, DOJ used a survey process to identify entities that were both ready and willing to receive funding for the pre-booking and diversion program rather than create a formal grant process. This process allowed DOJ more discretion in deciding entities that were ready and able to apply for and receive additional funding. As a result, grants could be provided quickly to recipients interested in implementing programs on a pilot basis. Given the benefits of allowing DOJ to provide funding to sites most ready and willing to accept funding for the pre-booking diversion program, the Committee could provide the funding in Alternative 1, but remove the requirement that \$250,000 annually be provided to cities of the first class. [Alternative 2] This alternative would result in \$511,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program, but not require \$250,000 annually to go to cities of the first class.

7. Since the pilot program has only been in existence since June, 2018, it may be appropriate to continue the pilot at the current sites but not attempt to expand the pilot at this time. Given the short time period with initial pilot sites, the Committee may wish to continue the funding provided in 2017 Act 32 to determine the progress of the pilot program and whether funding should be expanded. [Alternative 3] This alternative would result in \$261,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program.

8. In order to objectively determine whether the pilot program should be continued or expanded, the Committee may wish to require a report on the pilot program and its sites to include a description of each program number of participants and others statistics and performance measures by September 1, 2020. [Alternative 4] Note that as a condition of receiving grant funding, sites are required to spend up to 15% of the amount awarded on contracting with a third party for analysis and evaluation.

9. Given sites may be able and willing to run pre-booking diversion programs without the support of the state and that Act 32 established the program as one-time in nature with no required review or report, the Committee may wish to allow the program to expire as originally provided. [Alternative 5]

ALTERNATIVES

1. Provide \$511,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program. Require that \$250,000 annually be provided to cities of the first class.

ALT 1	Change to	
	Base	Bill
GPR	\$1,022,000	\$0

2. Provide \$511,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program. Do not require any specific amount be provided to cities of the first class.

ALT 2	Change to	
	Base	Bill
GPR	\$1,022,000	\$0

3. Provide \$261,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program.

ALT 3	Change to	
	Base	Bill
GPR	\$522,000	- \$500,000

4. In addition to one of the alternatives above, provide that DOJ must provide a report describing the services, capability, and progress of the pilot program and sites to the Joint Committee on Finance by September 1, 2020.

5. Take no action.

ALT 5	Change to	
	Base	Bill
GPR	\$0	- \$1,022,000

Prepared by: Sarah Wynn