



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #396

Nonviolent Offender Treatment Diversion Pilot Program Expansion (Justice)

[LFB 2021-23 Budget Summary: Page 369, #5c]

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 The Act provided \$261,000 GPR annually for the diversion pilot program and repealed the appropriation on July 1, 2019.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. Under 2019 Act 9, the program was provided \$261,000 annually for the diversion pilot program and repealed the appropriation on July 1, 2021.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 alcohol and other drug (AODA) treatment based on the individual's needs, which may take six to nine 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.

4. After three years of funding and project implementation, all three sites are operational. Enrollment in the programs has been impacted by the COVID pandemic. The specific progress for each site as noted by DOJ is as follows:

- The Superior Police Department's (PD) program has 10 participants (seven self-referral and three diverted). Since the start of the program, at least five self-referral participants and one diversion participant have successfully completed the program. The Department of Justice indicates that "None of those individuals have had any negative contact with police since completing the program and at least two of them currently have secured full-time jobs."

- The Sauk County program (Sauk Prairie PD and Baraboo PD) is fully operational and has been working to increase law enforcement referrals to the program. As of April, 2021, there were: 146 total referrals, 52 enrollments, and 20 completions.

- Door County officially started their program, in January, 2019. The Sheriff's Department deputies and the Sturgeon Bay PD were trained in March, 2019. Currently, the program indicates that while they have buy in from law enforcement, they are working on retaining those referred to the program.

5. Assembly Bill 68/Senate Bill 111, would provide \$261,000 GPR annually in local assistance funding to continue the Diversion Pilot Program on an on-going basis and would repeal the July 1, 2021, sunset date of the appropriation. The administration indicates that \$261,000 annually would be provided for the existing programs. The administration indicates that based on program experience a pre-booking diversion program may save costs and time associated with charging a person.

6. As currently constituted, the nonviolent offender diversion program identified as a pilot program. Thus, the appropriation has a sunset date. By definition a pilot program is one that is intended to demonstrate and evaluate the possibility of a larger initiative. However, under 2017 Act 32 and the subsequent extension of the sunset date, no evaluation of the program has been required. In the 2019-21 biennial budget, the Committee adopted a provision requiring DOJ to submit a report to the Committee by September 1, 2020, describing the services, sites, capacities, and progress of the

pilot program. This requirement was vetoed. Since the individual grantees have identified some positive outcomes, but the program is still in the pilot phase and no overall evaluation of the program has been completed, continuation of one-time funding may be appropriate. Therefore, the Committee could consider extending the sunset date to July 1, 2023, and requiring DOJ to submit a report to the Committee by September 1, 2022, describing the services, sites, capacities, and progress of the pilot program. [Alternative 1] This alternative would result in \$261,000 GPR annually during the 2021-23 biennium for the pre-booking diversion program on a one-time basis.

7. Alternatively, given that the grants have seen some early success, the Committee could determine that on-going funding for the program is more appropriate. [Alternative 2] This alternative would eliminate the current program sunset date and result in \$261,000 GPR annually on an on-going basis for the pre-booking diversion program.

8. In contrast, given 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 provided. To the extent that current sites are willing and able to support the pre-booking diversion programs, the individual programs may continue. [Alternative 3]

ALTERNATIVES

1. Provide \$261,000 GPR annually during the 2021-23 biennium only for the pre-booking diversion program. Extend the sunset date of the program to July 1, 2023. Require DOJ to submit a report to the Committee by September 1, 2022, describing the services, sites, capacities, and progress of the pilot program.

ALT 1	Change to Base
GPR	\$261,000

2. Provide \$261,000 GPR annually on an on-going basis for the pre-booking diversion program. Eliminate the current sunset date for the pre-booking diversion program.

ALT 2	Change to Base
GPR	\$261,000

3. Take no action.

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