

HOUSE BILL 1166

E4, J1

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By: **Delegates Ebersole, Bagnall, T. Branch, J. Lewis, and Lierman**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Law Enforcement Diversion Programs**

3 FOR the purpose of authorizing the establishment of certain law enforcement diversion
4 programs subject to certain restrictions; authorizing certain individuals to
5 participate in certain programs; authorizing certain providers to provide case
6 management including certain approaches under certain circumstances; requiring
7 certain planning for the implementation of law enforcement diversion programs;
8 requiring the establishment of a certain law enforcement diversion program plan;
9 providing for the use and release of certain information under certain circumstances;
10 requiring the Governor’s Office of Crime Control and Prevention to submit a certain
11 annual report with certain information; authorizing the Governor to include in the
12 State budget certain appropriations for the Governor’s Office of Crime Control and
13 Prevention to fund certain health and social services; authorizing the Governor’s
14 Office of Crime Control and Prevention to adopt certain guidelines and
15 requirements; requiring funding to be made available to certain law enforcement
16 diversion programs in certain geographic regions of the State; establishing activities
17 eligible for funding under this Act; authorizing involvement by certain individuals
18 and services in a law enforcement diversion program; authorizing a law enforcement
19 diversion program to use certain measures and practices; requiring the Governor’s
20 Office of Crime Control and Prevention, in conjunction with certain other entities, to
21 develop certain guidelines and a certain performance measurement system on or
22 before a certain date; and generally relating to law enforcement diversion programs.

23 BY repealing and reenacting, with amendments,
24 Article – Public Safety
25 Section 4–1001
26 Annotated Code of Maryland
27 (2018 Replacement Volume and 2019 Supplement)

28 Preamble

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The General Assembly acknowledges that opioid use disorders, poverty,
2 and homelessness in Maryland are persistent and growing concerns for Maryland
3 communities, and that these concerns compound existing challenges to adequately address
4 and manage behavioral health disorders; and

5 WHEREAS, Law enforcement officers have a unique opportunity to facilitate
6 connections to community-based behavioral health interventions that provide behavioral
7 health services and can help save and restore lives, help reduce drug use, overdose
8 incidence, and criminal offending and recidivism, and help prevent arrest and conviction
9 records that destabilize health, families, and opportunities for community citizenship and
10 self-sufficiency; and

11 WHEREAS, These efforts are bolstered when pursued in partnership with
12 behavioral health services providers and community members or organizations; and

13 WHEREAS, It is the intent of the General Assembly to authorize law enforcement
14 agencies to develop and implement collaborative law enforcement diversion programs in
15 Maryland that offer immediate pathways to behavioral health services and other services
16 as an alternative to traditional case processing and involvement in the criminal justice
17 system; now, therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Public Safety**

21 4–1001.

22 **(A) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, A LAW**
23 **ENFORCEMENT AGENCY MAY ESTABLISH A LAW ENFORCEMENT DIVERSION**
24 **PROGRAM IN PARTNERSHIP WITH ONE OR MORE PROVIDERS OF BEHAVIORAL**
25 **HEALTH SERVICES OR ONE OR MORE COMMUNITY MEMBERS OR ORGANIZATIONS.**

26 **(2) A LAW ENFORCEMENT DIVERSION PROGRAM ESTABLISHED**
27 **UNDER THIS SECTION MAY INCLUDE INDIVIDUALS REFERRED TO THE PROGRAM BY:**

28 **(I) A LAW ENFORCEMENT OFFICER:**

29 **1. AFTER THE ADMINISTRATION OF MEDICATION TO**
30 **REVERSE AN OVERDOSE;**

31 **2. AS A RESULT OF THE PROACTIVE IDENTIFICATION OF**
32 **THE INDIVIDUAL AS HAVING A SUBSTANCE USE DISORDER; OR**

33 **3. AFTER THE INDIVIDUAL IS DETAINED OR ARRESTED**

1 BY THE OFFICER;

2 (II) THE INDIVIDUAL THROUGH CONTACT WITH A LAW
3 ENFORCEMENT OFFICER TO ACKNOWLEDGE THE INDIVIDUAL'S SUBSTANCE USE
4 DISORDER; OR

5 (III) A LAW ENFORCEMENT OFFICER IN LIEU OF ISSUING A
6 CITATION OR ARREST WHEN PROBABLE CAUSE FOR CHARGES FOR AN INDIVIDUAL
7 ARE PRESENT BUT HELD IN ABEYANCE.

8 (3) A LAW ENFORCEMENT AGENCY MAY DEVELOP A LAW
9 ENFORCEMENT DIVERSION PROGRAM BASED ON A MODEL THAT:

10 (I) IS UNIQUE AND RESPONSIVE TO LOCAL ISSUES,
11 BEHAVIORAL HEALTH AND SOCIAL SERVICE NEEDS, AND PARTNERSHIPS;

12 (II) USES EVIDENCE-BASED PRACTICES; AND

13 (III) DOES NOT WITHHOLD SERVICES BASED ON
14 NONCOMPLIANCE.

15 (4) WHEN APPROPRIATE AND AVAILABLE, A BEHAVIORAL HEALTH
16 SERVICES PROVIDER OR OTHER APPROPRIATE PROVIDER MAY PROVIDE CASE
17 MANAGEMENT THAT INCLUDES PEER RECOVERY SUPPORT APPROACHES.

18 (5) PLANNING FOR A LAW ENFORCEMENT DIVERSION PROGRAM
19 SHALL INCLUDE:

20 (I) THE INVOLVEMENT OF ONE OR MORE BEHAVIORAL HEALTH
21 SERVICES PROGRAMS OR ONE OR MORE COMMUNITY MEMBERS OR ORGANIZATIONS;
22 AND

23 (II) AN AGREEMENT WITH THE GOVERNOR'S OFFICE OF CRIME
24 CONTROL AND PREVENTION TO COLLECT AND EVALUATE STATISTICAL DATA FOR
25 THE PROGRAM.

26 (B) (1) THE LAW ENFORCEMENT AGENCY, BEHAVIORAL HEALTH
27 SERVICES PROVIDERS, AND COMMUNITY MEMBERS OR ORGANIZATIONS SHALL
28 ESTABLISH A LOCAL LAW ENFORCEMENT DIVERSION PROGRAM PLAN THAT
29 INCLUDES PROTOCOLS AND PROCEDURES FOR:

30 (I) PARTICIPANT IDENTIFICATION, SCREENING OR
31 ASSESSMENT;

1 (II) BEHAVIORAL HEALTH AND SOCIAL SERVICES
2 FACILITATION;

3 (III) REPORTING; AND

4 (IV) ONGOING INVOLVEMENT OF THE LAW ENFORCEMENT
5 AGENCY, OFFICE OF THE STATE'S ATTORNEY, THE DIVISION OF PAROLE AND
6 PROBATION, AND THE OFFICE OF THE PUBLIC DEFENDER.

7 (2) THE USE AND RELEASE OF ANY PERSONAL IDENTIFICATION OR
8 MEDICAL INFORMATION OBTAINED IN ACCORDANCE WITH THIS SECTION IS
9 GOVERNED BY THE CONFIDENTIALITY PROVISIONS OF STATE LAW.

10 (C) ON OR BEFORE DECEMBER 31 EACH YEAR, THE GOVERNOR'S OFFICE
11 OF CRIME CONTROL AND PREVENTION SHALL PREPARE AN ANNUAL REPORT WITH:

12 (1) DATA REQUIRED BY THE GOVERNOR'S OFFICE OF CRIME
13 CONTROL AND PREVENTION, IN CONJUNCTION WITH THE MARYLAND CHIEFS OF
14 POLICE ASSOCIATION AND THE MARYLAND DEPARTMENT OF HEALTH, INCLUDING
15 DEMOGRAPHIC INFORMATION ON PROGRAM PARTICIPANTS, NUMBER OF LAW
16 ENFORCEMENT ENCOUNTERS THAT RESULTED IN A BEHAVIORAL HEALTH SERVICES
17 REFERRAL, AND TIME FROM LAW ENFORCEMENT ENCOUNTER TO BEHAVIORAL
18 HEALTH SERVICES ENGAGEMENT; AND

19 (2) PERFORMANCE MEASUREMENTS, INCLUDING KEY PERFORMANCE
20 INDICATORS FOR LAW ENFORCEMENT DIVERSION PROGRAMS, INCLUDING RATE OF
21 BEHAVIORAL HEALTH SERVICES ENGAGEMENT 30 DAYS AFTER THE POINT OF
22 INITIAL CONTACT.

23 (D) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION
24 SHALL SUBMIT THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (C) OF THIS
25 SECTION TO THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION AND,
26 IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE
27 SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS
28 COMMITTEE.

29 (E) THE GOVERNOR MAY INCLUDE IN THE STATE BUDGET AN ANNUAL
30 APPROPRIATION TO THE GOVERNOR'S OFFICE OF CRIME CONTROL AND
31 PREVENTION FOR THE PURPOSE OF FUNDING LAW ENFORCEMENT DIVERSION
32 PROGRAMS UNDER THIS SECTION, INCLUDING BEHAVIORAL HEALTH SERVICES AND
33 SOCIAL SERVICES THAT MAY BE AN ALTERNATIVE TO ARREST.

1 **(F) (1) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND**
2 **PREVENTION MAY ADOPT GUIDELINES AND REQUIREMENTS FOR THE DISTRIBUTION**
3 **OF FUNDS FOR EXPENSES RELATED TO LAW ENFORCEMENT DIVERSION PROGRAMS.**

4 **(2) FUNDING UNDER THIS SECTION SHALL BE MADE AVAILABLE TO**
5 **SUPPORT BOTH NEW AND EXISTING LAW ENFORCEMENT DIVERSION PROGRAMS IN A**
6 **BROAD SPECTRUM OF GEOGRAPHIC REGIONS IN THE STATE, INCLUDING URBAN,**
7 **SUBURBAN, AND RURAL COMMUNITIES.**

8 **(G) ACTIVITIES ELIGIBLE FOR FUNDING UNDER THIS SECTION INCLUDE:**

9 **(1) ACTIVITIES RELATED TO PROGRAM ADMINISTRATION,**
10 **COORDINATION, OR MANAGEMENT, INCLUDING THE DEVELOPMENT OF**
11 **COLLABORATIVE PARTNERSHIPS WITH LICENSED BEHAVIORAL HEALTH PROVIDERS**
12 **AND COMMUNITY MEMBERS OR ORGANIZATIONS, COLLECTION OF PROGRAM DATA,**
13 **AND MONITORING OF COMPLIANCE WITH A LOCAL LAW ENFORCEMENT DIVERSION**
14 **PROGRAM PLAN;**

15 **(2) CASE MANAGEMENT, INCLUDING CASE MANAGEMENT PROVIDED**
16 **BEFORE ASSESSMENT, DIAGNOSIS, AND ENGAGEMENT IN BEHAVIORAL HEALTH**
17 **SERVICES, AS WELL AS ASSISTANCE NAVIGATING AND GAINING ACCESS TO VARIOUS**
18 **BEHAVIORAL HEALTH MODALITIES AND SUPPORT SERVICES, SUCH AS HOUSING AND**
19 **OTHER BASIC HUMAN NEEDS.**

20 **(3) PEER RECOVERY OR RECOVERY SUPPORT SERVICES THAT**
21 **INCLUDE THE PERSPECTIVES OF PERSONS WITH THE EXPERIENCE OF RECOVERING**
22 **FROM A SUBSTANCE USE DISORDER, EITHER THEMSELVES OR AS FAMILY MEMBERS;**

23 **(4) TRANSPORTATION TO AND FROM A LICENSED BEHAVIORAL**
24 **HEALTH SERVICES PROVIDER OR OTHER PROGRAM PARTNER LOCATION; AND**

25 **(5) PROGRAM EVALUATION ACTIVITIES.**

26 **(H) (1) A LAW ENFORCEMENT DIVERSION PROGRAM MAY DEVELOP**
27 **SPECIFIC LINKAGE AGREEMENTS WITH RECOVERY SUPPORT SERVICES OR**
28 **SELF-HELP ENTITIES.**

29 **(2) A LAW ENFORCEMENT DIVERSION PROGRAM MAY INVOLVE KEY**
30 **FAMILY MEMBERS OF INDIVIDUALS IN THE PROGRAM AS A PART OF A FAMILY-BASED**
31 **APPROACH TO BEHAVIORAL HEALTH.**

32 **(3) A LAW ENFORCEMENT DIVERSION PROGRAM MAY USE**
33 **EVIDENCE-BASED PRACTICES AND OUTCOME MEASURES IN THE PROVISION OF**

1 **BEHAVIORAL HEALTH SERVICES AND MEDICATION–ASSISTED TREATMENT.**

2 **[(a)] (I)** For fiscal years 2020 through 2023, each year the Governor shall
3 appropriate \$425,000 in the annual State budget for Baltimore City to be used as an
4 operating grant for the Law Enforcement Assisted Diversion Program in Baltimore City.

5 **[(b)] (J)** The funds appropriated under subsection **[(a)] (I)** of this section shall
6 be used solely to supplement, and not supplant, funds otherwise available for the Law
7 Enforcement Assisted Diversion Program in Baltimore City.

8 **SECTION 2. AND BE IT FURTHER ENACTED,** That, on or before April 1, 2021,
9 the Governor’s Office of Crime Control and Prevention, in conjunction with the Maryland
10 Chiefs of Police Association and the Maryland Department of Health, shall:

11 (1) develop guidelines for the data required to be collected by the
12 Governor’s Office of Crime Control and Prevention, including demographic information on
13 program participants, number of law enforcement encounters that result in a behavioral
14 health referral, and time from law enforcement encounter to behavioral health services
15 engagement; and

16 (2) develop a performance measurement system, including key
17 performance indicators for law enforcement diversion programs, such as rate of behavioral
18 health services engagement 30 days after the point of initial contact.

19 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect
20 October 1, 2020.