

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1166
 Judiciary

(Delegate Ebersole, *et al.*)

Judicial Proceedings

Public Safety - Law Enforcement Diversion Programs

This bill authorizes a law enforcement agency to establish a law enforcement diversion program in partnership with one or more providers of behavioral health services or one or more community members or organizations, as specified. Those entities must establish a local law enforcement diversion program plan that includes specified protocols and procedures. The bill requires the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOVS), in conjunction with specified entities, to develop guidelines for data collection and a performance measurement system; a related reporting requirement is established.

Fiscal Summary

State Effect: General fund expenditures increase by \$36,200 in FY 2021; future years reflect annualization and ongoing costs. Potential effects on Medicaid and other State expenditures (not reflected in the chart below) are discussed below. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	36,200	40,700	41,500	43,000	44,500
Net Effect	(\$36,200)	(\$40,700)	(\$41,500)	(\$43,000)	(\$44,500)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Potential minimal increase in local government expenditures to the extent that local law enforcement agencies establish law enforcement diversion programs under the bill. Local revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Law Enforcement Diversion Programs

A law enforcement diversion program may include individuals referred to the program by (1) a law enforcement officer, as specified; (2) the individual through contact with a law enforcement officer to acknowledge the individual's substance use disorder; or (3) a law enforcement officer in lieu of issuing a citation or arrest when probable cause for charges for an individual are present but held in abeyance.

A law enforcement agency may develop a law enforcement diversion program based on a model that (1) is unique and responsive to local issues, specified needs, and partnerships; (2) uses evidence-based practices; and (3) does not withhold services based on noncompliance.

Planning for a law enforcement diversion program must include the involvement of one or more behavioral health services programs or one or more community members or organizations and an agreement with GOVS to collect and evaluate statistical data for the program. The law enforcement agency, behavioral health services providers, and community members or organizations must establish a local law enforcement diversion program plan that includes protocols and procedures for:

- participant identification, screening or assessment;
- behavioral health and social services facilitation;
- reporting; and
- ongoing involvement of the law enforcement agency, the Office of the State's Attorney, the Division of Parole and Probation, and the Office of the Public Defender (OPD).

A law enforcement diversion program *may* (1) develop specific linkage agreements with recovery support services or self-help entities; (2) involve key family members of individuals in the program as a part of a family-based approach to behavioral health; and (3) use evidence-based practices and outcome measures in the provision of behavioral health services and medication-assisted treatment. When appropriate and available, a behavioral health services provider or other appropriate provider may provide case management that includes peer recovery support approaches.

The use and release of any personal identification or medical information obtained in accordance with the bill is governed by the confidentiality provisions of State law.

Data Collection, Performance Measures, and Reporting

By December 31 each year, GOVS must prepare an annual report with specified data and performance measurements for submission to the Governor, the Senate Budget and Taxation Committee, and the House Appropriations Committee. By April 1, 2021, GOVS, in conjunction with the Maryland Chiefs of Police Association and the Maryland Department of Health, must develop guidelines for the data required to be collected by GOVS, as specified, and develop a specified performance measurement system.

Current Law/Background: Chapter 738 of 2019 established the Markell Hendricks Youth Crime Prevention and Diversion Parole Fund, administered by the Executive Director of GOVS, to provide grants to local law enforcement agencies to administer a diversion program for juveniles, as specified, or a youth engagement program or event in a high-crime area. The Governor must annually appropriate at least \$50,000 for the fund. The Governor's proposed fiscal 2021 budget includes \$50,000 for the fund.

The fund may only be used to provide grant assistance to local law enforcement agencies to administer a diversion program for juveniles, as specified, or a youth engagement program or event in a high-crime area. Priority for grant funding must be given to those jurisdictions with the highest number of offenders. A local law enforcement agency that applies for a grant from the fund must provide the executive director with any information the executive director deems necessary.

In addition to the Markell Hendricks Youth Crime Prevention and Diversion Parole Fund, the State provides regular and supplemental grants to local government police operations through various programs and funds administered by GOVS. GOVS plans, promotes, and funds efforts with government entities, private organizations, and the community to advance public policy, enhance public safety, reduce crime and juvenile delinquency, and serve victims. Other examples of grants administered by GOVS include the Maryland Violence Intervention and Prevention Program Fund, the Community Program Fund, the State Aid for Police Protection Fund, and the Law Enforcement Assisted Diversion (LEAD) Program in Baltimore City. Chapter 148 of 2018 requires, for fiscal 2020 through 2023, the Governor each year to appropriate \$425,000 in the annual State budget to Baltimore City for the LEAD Program.

A diversion program is generally one in which the primary goal is to reduce the occurrence of juvenile crime by diverting a youth from the traditional juvenile justice system and providing an alternative to formal processing. Diversion programs and practices vary in terms of the juvenile justice contact point at which the youth is diverted and the types of services provided. For example, some local law enforcement agencies operate diversion programs; only juveniles who fail to complete those programs are referred to the Department of Juvenile Services (DJS). Although law enforcement officers must typically

file a complaint with a DJS intake officer within 15 days after taking a child into custody, if a child is referred to a diversion program, the law enforcement officer may file a complaint up to 120 days later.

State Fiscal Effect:

Administrative Expenses

General fund expenditures for GOVS increase by \$36,246 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost of hiring one part-time program manager to assist with entering into agreements with law enforcement agencies to collect and evaluate statistical data for diversion programs, the collection and evaluation of data, and preparation of the required report. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$31,117
Operating Expenses	<u>5,129</u>
FY 2021 GOVS Admin. Expenditures	\$36,246

Future year administrative expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Medicaid Expenditures

To the extent law enforcement diversion programs result in Medicaid enrollees receiving additional behavioral health services, Medicaid expenditures (50% general funds, 50% federal funds) increase by an indeterminate amount. Federal fund revenues increase accordingly.

Other State Expenditures

To the extent that fewer defendants enter the State's criminal justice system as a result of diversion programs established under the bill, workloads and/or expenditures may decrease for the Judiciary, OPD, and the Department of Public Safety and Correctional Services.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Harford, Montgomery, Talbot, and Wicomico counties; Maryland Association of Counties; Maryland Municipal League; Governor's Office of Crime Prevention, Youth, and Victim Services; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; University System of Maryland; Morgan State University; Department of Budget and Management; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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