

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 271  
 Judiciary

(Delegate Ebersole)

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 the local behavioral health authority within the jurisdiction. The law enforcement agency, behavioral health services providers, and community members or organizations must establish a local law enforcement diversion program plan that includes specified protocols and procedures. By April 1, 2022, the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS), in conjunction with specified entities, must develop guidelines for data collection and a performance measurement system; the bill also establishes a related reporting requirement.

Fiscal Summary

**State Effect:** General fund expenditures increase by \$37,800 in FY 2022; 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 2022    | FY 2023    | FY 2024    | FY 2025    | FY 2026    |
|----------------|------------|------------|------------|------------|------------|
| Revenues       | \$0        | \$0        | \$0        | \$0        | \$0        |
| GF Expenditure | 37,800     | 42,000     | 43,100     | 44,700     | 46,400     |
| Net Effect     | (\$37,800) | (\$42,000) | (\$43,100) | (\$44,700) | (\$46,400) |

*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’s provisions. 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 a law enforcement officer (1) after the administration of medication to reverse an overdose; (2) after the individual is detained or arrested; or (3) in lieu of issuing a citation or making an arrest.

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; (3) uses harm reduction approaches; and (4) does not withhold services based on noncompliance.

Planning for a law enforcement diversion program must include the involvement of the local behavioral health authority within the jurisdiction and an agreement with GOCPYVS 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:

- program participant eligibility criteria and documentation;
- 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.

### *Data Collection, Performance Measures, and Reporting*

By April 1, 2022, GOCPYVS, in conjunction with the Maryland Chiefs of Police Association and the Maryland Department of Health (MDH), must develop guidelines for the data required to be collected by GOCPYVS, as specified, and develop a specified performance measurement system. By December 31 each year, GOCPYVS 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.

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.

**Current Law:** Chapter 738 of 2019 established the Markell Hendricks Youth Crime Prevention and Diversion Parole Fund, administered by the Executive Director of GOCPYVS, 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 2022 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 GOCPYVS. GOCPYVS 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 GOCPYVS 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. The Governor's proposed fiscal 2022 budget includes \$425,000 for the program.

**State Fiscal Effect:**

*Administrative Expenditures*

General fund expenditures for GOCPYVS increase by \$37,784 in fiscal 2022, which accounts for the bill’s October 1, 2021 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                 | \$32,448        |
| Operating Expenses                         | <u>5,336</u>    |
| <b>FY 2022 GOCPYVS Admin. Expenditures</b> | <b>\$37,784</b> |

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 established or expanded as a result of the bill 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 any diversion programs established or expanded as a result of the bill, workloads and/or expenditures may decrease for the Judiciary, OPD, and the Department of Public Safety and Correctional Services.

MDH can assist with the implementation of the bill’s data collection and performance measurement system requirements using existing resources.

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**Additional Information**

**Prior Introductions:** HB 1166 of 2020, a similar bill, passed the House with amendments and was referred to the Senate Judicial Proceedings Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** Maryland Association of County Health Officers; Baltimore City; Montgomery and Prince George's counties; City of Bowie; Governor's Office of Crime Prevention, Youth, and Victim Services; Office of the Public Defender; Department of Budget and Management; Maryland Department of Health; Department of Human Services; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2021  
rh/lgc Third Reader - March 10, 2021  
Revised - Amendment(s) - March 10, 2021

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