

HOUSE BILL 271

E4, J1

11r0714

(PRE-FILED)

By: **Delegate Ebersole**

Requested: September 24, 2020

Introduced and read first time: January 13, 2021

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 Prevention, Youth, and Victim Services to
11 submit a certain annual report with certain information; authorizing the Governor
12 to include in the State budget certain appropriations for the Governor's Office of
13 Crime Prevention, Youth, and Victim Services to fund certain health and social
14 services; authorizing the Governor's Office of Crime Prevention, Youth, and Victim
15 Services to adopt certain guidelines and requirements; requiring funding to be made
16 available to certain law enforcement diversion programs in certain geographic
17 regions of the State; establishing activities eligible for funding under this Act;
18 authorizing involvement by certain individuals and services in a law enforcement
19 diversion program; authorizing a law enforcement diversion program to use certain
20 measures and practices; requiring the Governor's Office of Crime Prevention, Youth,
21 and Victim Services, in conjunction with certain other entities, to develop certain
22 guidelines and a certain performance measurement system on or before a certain
23 date; and generally relating to law enforcement diversion programs.

24 BY repealing and reenacting, with amendments,
25 Article – Public Safety
26 Section 4-1001
27 Annotated Code of Maryland
28 (2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Preamble

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

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

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

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

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

Article – Public Safety

4–1001.

(A) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, A LAW ENFORCEMENT AGENCY MAY ESTABLISH A LAW ENFORCEMENT DIVERSION PROGRAM IN PARTNERSHIP WITH THE LOCAL BEHAVIORAL HEALTH AUTHORITY WITHIN THE JURISDICTION.

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

(I) A LAW ENFORCEMENT OFFICER:

1. AFTER THE ADMINISTRATION OF MEDICATION TO REVERSE AN OVERDOSE; OR

2. AFTER THE INDIVIDUAL IS DETAINED OR ARRESTED BY THE OFFICER; OR

1 **(II) A LAW ENFORCEMENT OFFICER IN LIEU OF ISSUING A**
2 **CITATION OR ARREST WHEN PROBABLE CAUSE FOR CHARGES FOR AN INDIVIDUAL**
3 **ARE PRESENT BUT HELD IN ABEYANCE.**

4 **(3) A LAW ENFORCEMENT AGENCY MAY DEVELOP A LAW**
5 **ENFORCEMENT DIVERSION PROGRAM BASED ON A MODEL THAT:**

6 **(I) IS UNIQUE AND RESPONSIVE TO LOCAL ISSUES,**
7 **BEHAVIORAL HEALTH AND SOCIAL SERVICES NEEDS, AND PARTNERSHIPS;**

8 **(II) USES EVIDENCE-BASED PRACTICES;**

9 **(III) USES HARM REDUCTION APPROACHES; AND**

10 **(IV) DOES NOT WITHHOLD SERVICES BASED ON**
11 **NONCOMPLIANCE.**

12 **(4) WHEN APPROPRIATE AND AVAILABLE, A BEHAVIORAL HEALTH**
13 **SERVICES PROVIDER OR OTHER APPROPRIATE PROVIDER MAY PROVIDE CASE**
14 **MANAGEMENT THAT INCLUDES PEER RECOVERY SUPPORT APPROACHES.**

15 **(5) PLANNING FOR A LAW ENFORCEMENT DIVERSION PROGRAM**
16 **SHALL INCLUDE:**

17 **(I) THE INVOLVEMENT OF THE LOCAL BEHAVIORAL HEALTH**
18 **AUTHORITY WITHIN THE JURISDICTION; AND**

19 **(II) AN AGREEMENT WITH THE GOVERNOR'S OFFICE OF CRIME**
20 **PREVENTION, YOUTH, AND VICTIM SERVICES TO COLLECT AND EVALUATE**
21 **STATISTICAL DATA FOR THE PROGRAM.**

22 **(B) (1) THE LAW ENFORCEMENT AGENCY, BEHAVIORAL HEALTH**
23 **SERVICES PROVIDERS, AND COMMUNITY MEMBERS OR ORGANIZATIONS SHALL**
24 **ESTABLISH A LOCAL LAW ENFORCEMENT DIVERSION PROGRAM PLAN THAT**
25 **INCLUDES PROTOCOLS AND PROCEDURES FOR:**

26 **(I) PROGRAM PARTICIPANT ELIGIBILITY CRITERIA AND**
27 **DOCUMENTATION;**

28 **(II) BEHAVIORAL HEALTH AND SOCIAL SERVICES**
29 **FACILITATION;**

30 **(III) REPORTING; AND**

1 (IV) ONGOING INVOLVEMENT OF THE LAW ENFORCEMENT
2 AGENCY, THE OFFICE OF THE STATE'S ATTORNEY, THE DIVISION OF PAROLE AND
3 PROBATION, AND THE OFFICE OF THE PUBLIC DEFENDER.

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

7 (C) ON OR BEFORE DECEMBER 31 EACH YEAR, THE GOVERNOR'S OFFICE
8 OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL PREPARE AN
9 ANNUAL REPORT WITH:

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

17 (2) PERFORMANCE MEASUREMENTS, INCLUDING RATE OF
18 BEHAVIORAL HEALTH SERVICES ENGAGEMENT 30 DAYS AFTER THE POINT OF
19 INITIAL CONTACT.

20 (D) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND
21 VICTIM SERVICES SHALL SUBMIT THE ANNUAL REPORT REQUIRED UNDER
22 SUBSECTION (C) OF THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH
23 § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND
24 TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE.

25 (E) THE GOVERNOR MAY INCLUDE IN THE STATE BUDGET AN ANNUAL
26 APPROPRIATION TO THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH,
27 AND VICTIM SERVICES FOR THE PURPOSE OF FUNDING LAW ENFORCEMENT
28 DIVERSION PROGRAMS UNDER THIS SECTION, INCLUDING BEHAVIORAL HEALTH
29 SERVICES AND SOCIAL SERVICES THAT MAY BE AN ALTERNATIVE TO ARREST.

30 (F) (1) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND
31 VICTIM SERVICES MAY ADOPT GUIDELINES AND REQUIREMENTS FOR THE
32 DISTRIBUTION OF FUNDS FOR EXPENSES RELATED TO LAW ENFORCEMENT
33 DIVERSION PROGRAMS.

34 (2) FUNDING UNDER THIS SECTION SHALL BE MADE AVAILABLE TO

1 SUPPORT BOTH NEW AND EXISTING LAW ENFORCEMENT DIVERSION PROGRAMS IN A
2 BROAD SPECTRUM OF GEOGRAPHIC REGIONS IN THE STATE, INCLUDING URBAN,
3 SUBURBAN, AND RURAL COMMUNITIES.

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

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

11 (2) CASE MANAGEMENT, INCLUDING CASE MANAGEMENT PROVIDED
12 BEFORE ASSESSMENT, DIAGNOSIS, AND ENGAGEMENT IN BEHAVIORAL HEALTH
13 SERVICES, AS WELL AS ASSISTANCE NAVIGATING AND GAINING ACCESS TO VARIOUS
14 BEHAVIORAL HEALTH MODALITIES AND SUPPORT SERVICES, SUCH AS HOUSING AND
15 OTHER BASIC HUMAN NEEDS;

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

19 (4) TRANSPORTATION TO AND FROM A LICENSED BEHAVIORAL
20 HEALTH SERVICES PROVIDER OR OTHER PROGRAM PARTNER LOCATION; AND

21 (5) PROGRAM EVALUATION ACTIVITIES.

22 (H) (1) A LAW ENFORCEMENT DIVERSION PROGRAM MAY DEVELOP
23 SPECIFIC LINKAGE AGREEMENTS WITH RECOVERY SUPPORT SERVICES OR
24 SELF-HELP ENTITIES.

25 (2) A LAW ENFORCEMENT DIVERSION PROGRAM MAY INVOLVE KEY
26 FAMILY MEMBERS OF INDIVIDUALS IN THE PROGRAM AS A PART OF A FAMILY-BASED
27 APPROACH TO BEHAVIORAL HEALTH.

28 (3) A LAW ENFORCEMENT DIVERSION PROGRAM MAY USE
29 EVIDENCE-BASED PRACTICES AND OUTCOME MEASURES IN THE PROVISION OF
30 BEHAVIORAL HEALTH SERVICES AND MEDICATION-ASSISTED TREATMENT.

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

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1, 2022,
5 the Governor's Office of Crime Prevention, Youth, and Victim Services, in conjunction with
6 the Maryland Chiefs of Police Association and the Maryland Department of Health, shall:

7 (1) develop guidelines for the data required to be collected by the
8 Governor's Office of Crime Prevention, Youth, and Victim Services, including demographic
9 information on program participants, number of law enforcement encounters that result in
10 a behavioral health services referral, and time from law enforcement encounter to
11 behavioral health services engagement; and

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

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2021.