

Justice

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LFB Summary Items for Which Issue Papers Have Been Prepared

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5	Nonviolent Offender Diversion Pilot Program (Paper #396)
5	Internet Crimes Against Children (Paper #397)
7	County Victim Witness Reimbursement Appropriation (Paper #398)
8	Violence Interruption Grants (Paper #399)
12	Crime Laboratory Toxicology Testing (Paper #400)
13	First Responder and Criminal Justice Training (Paper #401)
14	Alternative Emergency Response Expansion and 9-1-1 Diversion (Paper #402)
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LFB Summary Items Removed From Budget Consideration

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LFB Summary Item Addressed in Standard Budget Adjustments (Paper #101)

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #395

Continued Funding of TAD Program Expansion and Drug Court Grant Program (Justice)

[LFB 2021-23 Budget Summary: Page 368, # 3 f., and #4,
Page 369, #5 a. and b.; and Page 370, #6]

CURRENT LAW

The Department of Justice (DOJ) administers the treatment alternatives and diversion (TAD) grant program. The TAD program provides grants to counties to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol and other drugs. Projects supported by the TAD program typically follow one of two models: pre-trial diversion or adult drug or treatment court. Grants under the TAD program are awarded as part of a five-year competitive cycle (grants are awarded on a competitive basis in the first year of the cycle, and then on a noncompetitive basis for the remaining four years). Funding for the TAD program during the 2019-21 biennium is \$6,739,200 annually (\$5,650,000 GPR and \$1,089,200 PR). Program revenue for the TAD program is comprised of the following: (a) \$1,078,400 PR annually from the justice information system (JIS) surcharge; and (b) \$10,800 PR annually from the drug abuse program improvement surcharge (DAPIS) and drug offender diversion surcharge (DODS).

The Department also administers the drug court grant program. Under the drug court grant program, DOJ provides grants to counties to establish and operate drug courts. Grants must be provided to counties that have not established a drug court. Under statute, a drug court is defined as a court that diverts a substance-abusing person from prison or jail into treatment by increasing direct supervision of the person, coordinating public resources, providing intensive community-based treatment, and expediting case processing. Base funding for this grant program is \$500,000 GPR annually.

DISCUSSION POINTS

1. The TAD program was initially created under 2005 Act 25, while the drug court grant program was created under 2013 Act 20. Since inception, funding for the TAD program has grown significantly. Funding for the drug court grant program has remained level since its inception. Table 1 identifies funding appropriated for the TAD program and the drug court grant program from 2006-07 through 2020-21. In reviewing the table, note that federal dollars from the Byrne justice assistance grant program have been utilized in the past to support a TAD grant to Milwaukee County. However, since this funding was supported by an existing federal grant program and was not directly appropriated by the Legislature, these amounts are not included in the table. Currently, the Milwaukee County TAD program receives state funding appropriated for the TAD program.

TABLE 1

Appropriated Funding for the TAD Program and County Drug Court Grant Program 2006-07 Thru 2020-21

<u>Fiscal Year</u>	<u>GPR</u>	<u>PR</u>	<u>Total</u>	<u>PR Funding Sources</u>
TAD Program				
2006-07	\$0	\$755,000	\$755,000	DAPIS and DODS (\$755,000).
2007-08	0	755,000	755,000	DAPIS and DODS (\$755,000).
2008-09	0	755,000	755,000	DAPIS and DODS (\$755,000).
2009-10	0	712,500	712,500	JIS surcharge (\$705,000); and DAPIS and DODS (\$7,500).
2010-11	0	712,500	712,500	JIS surcharge (\$705,000); and DAPIS and DODS (\$7,500).
2011-12	0	1,085,900	1,085,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2012-13	0	1,085,900	1,085,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2013-14	2,500,000	1,085,900	3,585,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2014-15	2,500,000	1,085,900	3,585,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2015-16	2,500,000	1,084,000	3,584,000	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$5,600).
2016-17	2,500,000	3,084,100	5,584,100	JIS surcharge (\$1,078,400); one-time transfer from the Department of Health Services institutional operations and charges PR appropriation (\$2,000,000); and DAPIS and DODS (\$5,700).
2017-18	4,650,000	1,339,000	5,989,000	JIS surcharge (\$1,078,400); one-time transfer from DOJ's discretionary settlement funds (\$250,000); and DAPIS and DODS (\$10,600).
2018-19	4,650,000	1,339,200	5,989,200	JIS surcharge (\$1,078,400); one-time transfer from DOJ's discretionary settlement funds (\$250,000); and DAPIS and DODS (\$10,800).
2019-20	5,650,000	1,089,200	6,739,200	JIS surcharge (\$1,089,200); and DAPIS and DODS (\$10,800).
2020-21	5,650,000	1,089,200	6,739,200	JIS surcharge (\$1,089,200); and DAPIS and DODS (\$10,800).
County Drug Court Grant Program, 2016-17 Through Present				
2016-17	500,000	0	500,000	
2017-18	500,000	0	500,000	
2018-19	500,000	0	500,000	
2019-20	500,000	0	500,000	
2020-21	500,000	0	500,000	

2. Under 2019 Act 9, an additional \$1,000,000 GPR annually was provided for the TAD program during the 2019-21 biennium only. Under 2019 Act 9, one-time funding for the following

was provided: (a) \$250,000 GPR annually for existing programs to replace \$250,000 annually in one-time program revenue funding provided in the 2017-19 biennium; (b) \$250,000 annually to expand existing programs; and (c) \$500,000 annually for new TAD programs in a new appropriation. A new, competitive five-year grant cycle for TAD grants begins in January, 2022.

3. As funding for the TAD program has grown, so have the number of grants under the program. After its inception under 2005 Act 25, the TAD program supported six TAD projects operated by seven counties and one tribe (there was one joint project operated by two counties and one tribe). With the increased funding for the TAD program in recent years, DOJ awarded 50 TAD grants totaling \$6,739,200 to projects operated by 50 counties and two tribes in 2020. [Note that of the \$6,739,200 appropriated for the TAD program, \$42,800 is utilized for a portion of program administration expenses.] In addition, DOJ utilized \$500,000 from the drug court grant program to provide grants to five counties to establish a drug court. [In reviewing the number of drug courts, it should be noted that, on occasion, counties and tribes that do not have a drug court will utilize services provided by an existing drug court in another county.] Attachment I identifies the TAD projects that received a grant award in 2019. Attachment II identifies the counties that received a grant under the drug court grant award in 2019.

4. The TAD program and the drug court grant program support similar county projects. Projects supported by the TAD program typically follow one of two models: pre-trial diversion or drug/treatment court. Under current law, the drug court grant program provides funding to counties to establish and operate drug courts. The Department may only provide drug court grant funding to counties that have not established a drug court.

5. While the TAD program and the drug court grant program support similar county projects, they are two statutorily separate grant programs. The drug court grant program has few statutory requirements associated with the program. That is, current law only requires that DOJ utilize funding under the program to provide grants to counties that have not established a drug court so that the county may establish and operate a drug court. In contrast, the statutes identify several programmatic requirements associated with the TAD program. These requirements include: (a) establishing requirements that counties must follow in order for their TAD project to be eligible for a TAD grant; (b) requiring counties that receive a TAD grant to provide a 25% local funding match; (c) requiring DOJ to annually prepare a progress report that evaluates the effectiveness of the TAD program; (d) requiring DOJ to prepare a comprehensive report on the TAD program every five years that includes a cost-benefit analysis of the program; and (e) requiring grants be awarded on a five-year competitive grant cycle.

6. It should be noted that while the statutes differentiate between the TAD program and the drug court grant program, DOJ administers these two programs in conjunction with one another. Further, DOJ applies the program requirements established for the TAD program to the drug court grant program, while still adhering to the statutory purpose of the drug court grant program.

7. Also note that some counties may run county specific diversion or drug courts to allow for more flexibility in programing without TAD funding. For example, a county may receive non-TAD funding and use it to provide services to a participant who would be ineligible for state funding under TAD.

8. The Department of Justice prepared a cost-benefit analysis of the TAD program covering the years 2014-2018. The report concluded that, "the Wisconsin criminal justice system receives a benefit of \$4.17 for every \$1 in state TAD funding spent on treatment courts and a benefit of \$8.68 for diversion programs. These benefits are incurred through averted incarceration costs and reduced future crime costs per discharge in 2014-2018."

9. The "State of Wisconsin Criminal Justice Coordinating Council: Treatment Alternatives and Diversion Program Report 2020" indicates "DOJ has worked to develop a project to develop a web-based, integrated reporting system for problem-solving courts and diversion programs throughout Wisconsin. This system, the Comprehensive Outcomes, Research, and Evaluation (CORE) Reporting System was designed by DOJ's Bureau of Justice Information and Analysis (BJIA) with input from multiple state and local partners and with the technical development work being carried out by DOJ's Bureau of Computing Services (BCS)." Funding for this project was provided through one-time federal grants.

10. The rollout of the system occurred in 2017 and 2018. All sites now use this reporting system. In addition, DOJ makes CORE available at no charge to sites that do not receive TAD grant funding. The Department indicates that "the CORE Reporting System incorporates performance measures developed cooperatively with the National Center for State Courts (NCSC) that can be utilized by drug and hybrid courts across the state. The system will provide an integrated tool to collect more detailed data on treatment court and diversion program participants, which will allow sites to regularly monitor the progress of their programs and will also support longer-term evaluation of TAD and related programs across the state."

11. Data from CORE indicates that, since the beginning of 2019, 12,416 referrals have been made to TAD programs, and of those referrals 5,278 individuals were found to be eligible for programming.

12. There are multiple issues regarding TAD that are raised in AB 68/SB 111: (a) the continuation of one-time funding GPR funding provide in the 2019-21 biennium; (b) the impact of PR funding that is in an overdraft situation on TAD; (c) the necessity for having two separate GPR appropriations that are in essence identical; (d) the necessity of increased staffing for the existing program; (e) statutory changes to the program which among other changes would expand the scope of the program and reduce the current match requirement; and (f) the significant increase in program funding in 2022-23 along with additional staff for the expansion. Each of these issue is addressed below.

13. *Continue One-time Funding for the 2019-21 Biennium [LFB Summary, Page 369, #5. a. and b.]*. Assembly Bill 68/Senate Bill 111, would provide \$500,000 GPR annually for the treatment alternatives and diversion (TAD) and \$500,000 GPR annually in the new TAD appropriation created in the 2019-21 biennial budget. The equivalent amounts of GPR funding were provided for the above purposes as one-time funding in the 2019-21 biennium and are, therefore, not included in the Department's base budget.

14. In order to support TAD programming at its current level, the Committee may decide to continue TAD funding provided in the last biennium [Alternative A1]. This alternative would provide

a total of \$1,000,000 GPR annually for the TAD programming. If no action is taken, overall TAD funding would be \$500,000 less than had been provided in 2020-21. [Alternative A2]

15. *Program Revenue Reestimates [LFB Summary, Page 367, #3 f.]/Convert PR Funding to GPR.* Assembly Bill 68/Senate Bill 111, would increase expenditure authority by \$140,500 PR annually for the alternatives to prosecution and incarceration for persons who use alcohol or other drugs, which is funded from the justice information fee appropriation. Expenditures are reestimated to administer the treatment alternatives and diversion program. Base funding for the appropriation is \$1,078,400.

16. Current base PR funding for the TAD program relies on two PR appropriations that are in deficit. The \$21.50 justice information system surcharge (JIS) is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment action, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action. In 2020-21, the fund was statutorily required to support the amounts identified in the table below.

Justice Information System Surcharge Fund Obligations, 2020-21

<u>Obligation</u>	<u>Amount Appropriated in 2020-21</u>
Statutory lapse requirement	\$700,000
Justice information systems (District Attorney information technology)	4,169,900
Law enforcement officer supplement grant program	224,900
Treatment alternatives and diversion (TAD) grant program	1,078,400
Wisconsin interoperable system for communications (WISCOM)	1,262,400
Wisconsin justice information sharing program	680,400
Child advocacy center grant program	238,000
Victim notification	<u>682,300</u>
 Total	 \$9,036,300

17. In recent years, the JIS surcharge fund has operated in deficit. As indicated in the December, 2020, unsupported overdraft review submitted by DOA to the Committee, the JIS surcharge fund concluded 2019-20 with a cumulative deficit of \$6.0 million. The administration indicates that the deficit is expected to increase over the 2021-23 biennium. The table below identifies the condition of the fund from 2016-17 through 2020-21 (estimated).

JIS Surcharge Fund Revenues and Obligations, 2015-16 through 2019-20

Fiscal Year	<u>Collections</u>	<u>Obligations</u>	<u>Reversions</u>	<u>Difference</u>	<u>Ending Balance</u>
2016-17	\$8,454,400	\$9,830,600	\$248,300	-\$1,127,900	-\$3,471,200
2017-18	8,759,700	10,056,000	267,400	-1,028,900	-4,500,100
2018-19	8,794,800	10,069,600	395,100	-879,700	-5,379,800
2019-20	8,215,500	9,010,800	222,900	-572,400	-5,952,200
2020-21*	7,804,700	9,036,300	222,900	-1,008,700	-6,960,900

* Estimated

18. The other PR revenue for TAD is the \$10 drug offender diversion surcharge (DODS) which is assessed for property crime convictions under Chapter 943 of the statutes. The DODS fund has operated in deficit since the creation of TAD. In 2019-20, the DODS surcharge fund concluded the fiscal year with a cumulative deficit of \$1,573,700. The appropriation is expected to continue to carry a deficit through the 2021-23 biennium. Due to the deficit, a comparatively small amount of funding has been provided from DODS.

19. Given the overdraft condition of the PR appropriations that the TAD program draws from, the Committee could, instead, use the GPR funding to replace PR funding [Alternative B1]. Under this alternative, \$1,000,000 GPR annually could be used to replace \$1,000,000 PR from JIS to reduce reliance on this source. It can be argued that the provision of GPR allows for a more stable revenue source for a program for which demand has remained consistently strong. The JIS appropriation would continue to support \$89,200 PR annually for TAD grants.

20. Under AB 68/SB 111, an increase of \$140,500 PR annually funded from the JIS is recommended in order to provide for increased TAD grants. The Department indicates that "as the funding for TAD programs has increased, it has not been accompanied by administrative funding to reflect the costs of program administration, including fundamental costs like office space, IT, and DOA-allocated mandatory costs for staff assigned to TAD as well as the costs of software and services needed to support administering the grants (eGrants) and reporting and analysis of outcomes. The PR funding is also used to provide oversight, training and technical assistance to grant recipients and programs." The Department indicates that the \$140,500 increase "reflects the usual and necessary costs of operating the existing program" and this amount is "a reasonable estimate of the funding necessary to continue current operations based on historical spending."

21. As such, the Committee could adopt this recommendation. [Alternative B2] However, as indicated above, the JIS surcharge appropriation is in an overdraft situation. Given the long standing deficit, the Committee could take no action on this proposed PR reestimate. As result, PR funding for TAD from JIS would remain at the base of \$1,078,400 PR annually.

22. As currently structured, the TAD program has two GPR appropriations that provide grants: (a) alternatives to incarceration grant program (s. 20.455(2)(ek)); and (b) alternatives to prosecution and incarceration for persons who use alcohol or other drugs; presentencing assessments (s. 20.455(2)(em)). The two appropriations exist because, under 2019 Act 9, an appropriation created

by the Legislature for TAD grants to counties that had not previously received a grant was vetoed by the Governor to apply broadly to any TAD grants. As a result of the veto, there is no statutory distinction between the appropriations; both provide TAD grants. Given that both GPR appropriations are administered in the same manner, the Committee could choose to consolidate the appropriations. [Alternative B3]. This alternative would result in one GPR TAD appropriation.

TAD Administration

23. The Department staff for the TAD program have responsibilities to the program that include: (a) grant management; (b) fiscal; (c) data collection; and (d) technical assistance. Grant management responsibilities include: (a) annual grant applications; (b) reviewing and approving quarterly program reports; and (c) a competitive grant application process every five years. The Department indicates that the workload is increased when a new round of competitive grants are going through, since all 86 plus programs are re-evaluated.

24. Fiscal responsibilities include: (a) approving expenditures and processing payments quarterly; (b) calculating and enforcing local match requirements, and (c) consulting on and approving grant modifications. TAD is reimbursement based funding, which means that after a grant is awarded the county first expends funds and then submit receipts for DOJ to review before a reimbursement is sent back to the program.

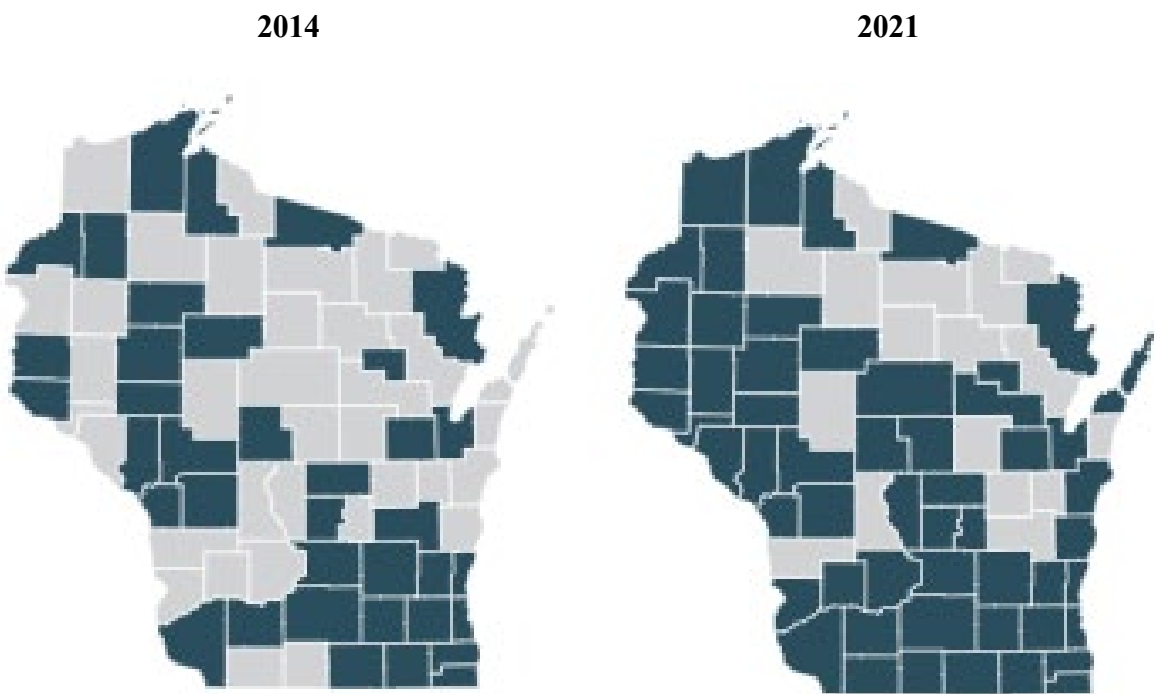
25. Data collection responsibilities include: (a) CORE reporting system updates and monitoring; (b) data analysis and reporting; and (c) annual reports and multi-year evaluations. Reporting on individual programs is crucial as it opens up possibilities for program specific evaluations. One example of this is tracking the time between arrest and admission to a program. Generally, less time between arrest and program admission is associated with better outcomes. Reporting abilities will help individual programs track what their times are between arrest and admission to the program and may help them identify bottlenecks in the process.

26. Technical assistance and training responsibilities include: (a) training local programs, (b) conducting site visits; (c) providing program feedback; and (d) coordinating and conducting statewide standards trainings. Trainings are provided on treatment court standards, diversion standards, on topics requested by individual programs.

27. On November 12, 2014, 5.0 FTE GPR positions (2.0 research analysts, 1.0 grants specialist, and 2.0 program and policy analysts) were provided for the administration and evaluation of the TAD and Drug Court Grant programs. To support the positions, DOJ was directed to delete 5.0 GPR vacant positions.

28. Since that time, the TAD program has expanded. In 2014, as shown on the following maps, there were 35 TAD programs in 35 counties and three tribes; currently, there are 86 programs in 53 counties and three tribes. [Counties with TAD programs are more darkly shaded.]

Counties with TAD Programs



29. Assembly Bill 68/Senate Bill 111 would provide \$221,400 GPR in 2021-22 and \$273,500 GPR in 2022-23, and 3.0 GPR positions annually (1.0 program and policy analyst, 1.0 grants specialist advanced, and 1.0 research analyst advanced), to administer and evaluate the TAD grant program and drug court grant program. The positions would perform the following duties: (a) evaluate the TAD and drug court grant program as required under statute; (b) provide grant recipients technical assistance as they develop and implement their projects; and (c) provide fiscal oversight for the TAD and drug court grant program.

30. The "Treatment Alternatives and Diversion (TAD) Program 2014-2018 - Participant Outcome Summary and Cost-Benefit Report", indicates, "Given the rapid expansion of the TAD program, the resources for both the administration of the program and for evaluation have not kept pace. Consideration should be given to potentially expanding the available staff funded to support the data collection, analysis, and evaluation of this significant program. In addition, while TAD is administered as a partnership with the state agencies, there is no funding attached to the partner agencies to assist in the administration of TAD. As a result, the efforts to improve the administration of the program in recent years have been the result of a largely grassroots effort of state and local partners. In addition to a lack of staffing resources, there are limited state funds allocated through the TAD program for additional needs that are critical for administering the program effectively, including the development of reporting and evaluation systems and the provision of training and technical assistance. As the program has continued to expand, these needs have almost solely been addressed with federal grant funding, which is not sustainable in the long term."

31. The "State of Wisconsin Criminal Justice Coordinating Council: Treatment Alternatives

and Diversion Program Report 2020" recommends enhancing "resources at the state level to better support the local program implementation needs. This would include DOJ administrative and evaluation/research resources, training and technical assistance resources, and state partner agency resources needed to fully support local programs."

32. There are currently no vacant GPR positions within DOJ that have been vacant for nine or more months. It should be noted that, since March, 2020, there has been a hiring freeze in effect for most executive branch agency positions.

33. In order to provide the TAD program additional staffing for the next competitive grant cycle, allow for additional technical assistance, and administrative staffing to make sure reimbursements get back to counties in a timely manner, the Committee could provide the three requested positions. [Alternative C1] This alternative would provide \$221,400 GPR in 2021-22 and \$273,500 GPR in 2022-23, and 3.0 GPR positions annually, to administer and evaluate the TAD grant program and drug court grant program.

34. Given that the TAD program has not had an increase in staffing since 2014, and in recognition that the program has expanded since that time, additional staffing could be provided but at a reduced level. If the Committee provided \$141,500 GPR in 2021-22 and \$169,300 GPR in 2022-23, and 1.6 GPR positions annually, to administer and evaluate the TAD grant program and drug court grant program the Department could make a determination as to how to prioritize the allocation for the additional staffing resources. [Alternative C2]

35. On the other hand, the TAD program has operated with a similar number of programs and staff over the last biennium, the Committee may choose to take no action. [Alternative C3] Under this alternative, TAD staffing would remain at current levels.

TAD Statutory Changes

36. The "State of Wisconsin Criminal Justice Coordinating Council (CJCC): Treatment Alternatives and Diversion Program Report 2020" states "As a result of the rapid and large expansions of the Treatment Alternatives and Diversion (TAD) program, there is a need to review and propose revisions to the TAD statute, which was originally drafted in 2005. Given the large increase in programming statewide, the advances in research and evidence-based programming since the program began, and the progress statewide on developing standards for treatment courts and diversion programs, a necessary goal moving forward is to review the TAD statute and make recommendations for clarifying language and/or statutory changes to improve the functioning of TAD programs statewide. This project is being coordinated by DOJ and began through the State CJCC's Behavioral Change Interventions Subcommittee, which is now recreated as the Treatment Alternatives and Diversion (TAD) Subcommittee. Through this process, recommendations from the TAD Subcommittee will be forwarded to the State CJCC for review and approval."

37. Assembly Bill 68/Senate Bill 111, would modify the TAD grant program as follows:

a. Remove the specification that TAD grants be used for on alcohol and other drug treatment. Instead, allow grants to be used on programs that operate within the continuum from

arrest to discharge from supervision and provides an alternative to prosecution, revocation, or incarceration through the use of pre-charge and post-charge diversion programs or treatment courts and community-based corrections. In connection with the broadening of the grant purposes, remove specific references to "mental health services" (for example, programs would be designed to "integrate all services" rather than "integrate all mental health services.") Specify that programs employ evidence-based practices targeted to the population served by the program.

b. Change the match requirement from 25 percent to 10 percent.

c. Specify that, if the program is administered by a tribe, the criminal justice oversight committee must consist of a representative of the judiciary, a representative of criminal prosecution and criminal defense, a social services provider, a behavioral health treatment provider, a law enforcement officer, a representative of corrections, and other members that the oversight committee determines are appropriate to the program.

d. Specify that programs be designed not only to promote, but also facilitate the implementation of effective criminal justice policies and practices that maximize justice. Further, specify that programs not only promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, and reduce recidivism, but also victim safety. Delete the requirement that TAD grants improve the welfare of participants' families by meeting the comprehensive needs of participants.

e. Allow, instead of require, an eligible program to charge participants a fee for their treatment.

f. Eliminate specific statutory requirements pertaining to exposure of genitals during drug testing.

g. Specify that if a person is participating in any evidence-based substance use disorder treatment program as determined by DOJ, regardless of its status relating to the TAD program, the court does not need to order a substance use assessment.

h. Beginning in 2021-22, change the competitive grant process from a five-year cycle to a four-year cycle. The modification is intended to better align the grant cycle and program reporting and evaluation timelines with the biennial budget.

i. Specify that modifications to TAD would first apply to grants awarded on or after the effective date of the bill.

38. The Department believes that there are limited opportunities to expand the TAD program within the current statutory construction. Thus, allowing for other types of treatment courts to be funded, is intended to increase the number of programs that the state could potentially fund.

39. Counties currently not funded with state TAD funding include: Calumet, Clark, Florence, Fond du Lac, Forest, Iron, Juneau, Kewaunee, Langlade, Lincoln, Menominee, Oconto, Oneida, Price, Sawyer, Vernon, Vilas, Waupaca, and Winnebago. Note that Fond du Lac was previously funded in calendar years (CY) 2014-2016 and Winnebago was funded in CY 2017, but

discontinued the program in CY 2018. Further, the Lac du Flambeau Tribe in Vilas and the Menominee Tribe also received funding. In the 2016-17 competitive round, Price County applied but is currently unfunded. In the 2017-18 competitive round, the following currently unfunded counties applied: Sawyer, Vernon, and Waupaca.

40. In order to provide counties with increased flexibility associated with running treatment courts and updating TAD statutes and given the limited possibilities for expansion under the program as it is currently administered, the Committee may include the TAD statutory changes in the bill. [Alternative D1] This alternative would enact the provisions as are listed above.

41. The "CJCC: Treatment Alternatives and Diversion Program Report 2020" states "The original intent of this match requirement was to ensure local jurisdictions (counties or tribes) provided financial support for the programs the state had agreed to fund. However, this local match requirement has been difficult for some programs to meet, especially rural counties and tribes. The reason for the difficulty in meeting the match requirement is different for counties versus tribes. Rural counties just do not operate with the same tax levy as more urban and wealthier counties do, so their ability to support these programs is limited and at the same time these counties are in desperate need of the services. The tribes on the other hand, struggle to meet the match because many of their programs and staff are funded through other grants, which is not an eligible source for match funding. The impact this has had on several of our rural counties and tribes is twofold – some have not been able to spend their entire grant award because they cannot meet the match requirement or, more recently, several of the rural and less resource wealthy counties could not apply for additional TAD funding in the 2020 expansion round because they were not able to meet the match requirement that would have been associated with additional funding." The CJCC originally requested elimination of the match requirement and indicates that elimination of the match requirement would make the TAD program easier to administer. Given the complications that a match requirement may present to counties, the Committee may choose to eliminate it instead of reducing it. [Alternative D2] This alternative would eliminate the 25% match requirement.

42. Since the beginning of the TAD program there has been an almost constant expansion of the program. Based on the number of funded grants, the statutory construction of the program has not appeared to hamper program participation. As such, it could be argued that modification of the program's statutes is not necessary at this time. Further, it could be argued that if statutory changes to the program are necessary separate legislation could be adopted. Therefore, the Committee could take no action at this time. [Alternative D3] Under this alternative, no legislative changes or expansion of TAD would occur.

TAD Funding Expansion

43. Assembly Bill 68/Senate Bill 111, would provide \$15,000,000 GPR and 2.0 GPR positions in 2022-23 to expand the Treatment Alternatives and Diversion (TAD) program. Of the total, \$14,647,600 would be provided for increased grant funding, and \$352,400 to support 2.0 positions (\$104,300 for salaries and fringe benefits, \$158,800 for supplies and services, and \$89,300 in one-time costs). The 2.0 positions added would be assigned as a grants specialist-advanced and program and policy analyst-advanced to manage the program expansion planning and award process. The Department indicates that if the expansion is enacted it may need an additional 10.0 positions to

handle the programs associated with expansion of the program.

44. The proposed statutory change to the TAD program to allow grants to be used for programs that operate within the continuum from arrest to discharge from supervision and for alternative to prosecution, revocation, or incarceration through the use of pre-charge and post-charge diversion programs or treatment courts and community-based corrections, would expand the types for grants that TAD could fund, and increase the volume of grant applications DOJ would need to review and oversee. As a result, in order to increase funding for TAD programs, the Committee could provide \$15,000,000 GPR and 2.0 GPR positions in 2022-23 to TAD. [Alternative E1]

45. The \$15.0 million TAD program expansion is not based on specific identified demand for expanded TAD grants. None the less, the TAD program has been widely used by Wisconsin counties and tribes. In order to allow for further expansion of the program (with or without the proposed statutory expansion), increased funding for TAD could be provided, but at a lower amount than that proposed under AB 68/SB 111. For example, if \$7,500,000 GPR and 2.0 GPR positions in 2022-23 were provided, the TAD and drug court grant programs would approximately double in size (from \$7,239,200 (all funds) to \$14,386,800 (all funds). This alternative would provide \$7,147,600 GPR for new grants and \$352,400 GPR in 2022-23 to address the additional grant workload. [Alternative E2] Or, a lesser amount, such as \$2,500,000 GPR and the 2.0 GPR positions could be provided in 2022-23 (\$2,147,600 for grants and \$352,400 to address grant workload). [Alternative E3]

46. On the other hand, a large increase in funding one year into the four or five grant cycle may be disruptive to the overall TAD grant program and more information about what new types of treatment programs the counties are interested in may be warranted. To facilitate this evaluation, \$82,100 GPR in 2021-22 and \$99,500 GPR in 2022-23, and 1.0 GPR positions annually, could be provided to conduct the survey for new treatment courts and help with implementation and the maintenance of new treatment programs. [Alternative E4]

47. While DOJ requested the continuation of one-time TAD funding and additional TAD administrative resources, the Department did not request increased TAD funding beyond these amounts. Given that DOJ did not request increased funding and that the proposed expansion of TAD is dependent on the enactment of statutory changes to broaden the TAD program grant, the Committee may choose to take no action. [Alternative E5]

ALTERNATIVES

A. Continuation of One Time Funding

1. Provide \$1,000,000 GPR annually in one-time funding for the treatment alternatives and diversion program to fund both new and existing programs.

ALT A1	Change to Base
GPR	\$2,000,000

2. Take no action regarding continuation of one-time funding.

B. PR Funding/GPR Appropriation Consolidation

1. Provide \$1,000,000 GPR annually to offset an annual \$1,000,000 PR reduction from the JIS surcharge appropriation.

ALT B1	Change to Base
GPR	\$2,000,000
PR	<u>-2,000,000</u>
Total	\$0

2. Provide an additional \$140,500 PR annually for the TAD program from the JIS surcharge.

ALT B2	Change to Base
PR	\$281,000

3. Consolidate the GPR TAD appropriations. [This alternative would result in no change in funding.]

4. Take no action.

C. TAD Administration

1. Provide \$221,400 GPR in 2021-22 and \$273,500 GPR in 2022-23, and 3.0 GPR positions annually, to administer and evaluate the TAD grant program and drug court grant program.

ALT C1	Change to Base	
	Funding	Positions
GPR	\$494,900	3.00

2. Provide \$141,500 GPR in 2021-22 and \$169,300 GPR in 2022-23, and 1.6 GPR positions annually, to administer and evaluate the TAD grant program and drug court grant program.

ALT C2	Change to Base	
	Funding	Positions
GPR	\$310,800	1.60

3. Take no action.

D. TAD Statutory Changes

1. Modify the TAD program by adopting any of the following statutory provisions:
 - a. Remove the specification that TAD grants be used for on alcohol and other drug treatment. Instead, allow grants to be used on programs that operate within the continuum from arrest to discharge from supervision and provides an alternative to prosecution, revocation, or incarceration through the use of pre-charge and post-charge diversion programs or treatment courts and community-based corrections. In connection with the broadening of the grant purposes, remove specific references to "mental health services". Specify that programs employ evidence-based practices targeted to the population served by the program.
 - b. Change the match requirement from 25 percent to 10 percent.
 - c. Specify that, if the program is administered by a tribe, the criminal justice oversight committee must consist of a representative of the judiciary, a representative of criminal prosecution and criminal defense, a social services provider, a behavioral health treatment provider, a law enforcement officer, a representative of corrections, and other members that the oversight committee determines are appropriate to the program.
 - d. Specify that programs be designed not only to promote, but also facilitate the implementation of effective criminal justice policies and practices that maximize justice. Further, specify that programs not only promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, and reduce recidivism, but also victim safety. Delete the requirement that TAD grants improve the welfare of participants' families by meeting the comprehensive needs of participants.
 - e. Allow, instead of require, an eligible program to charge participants a fee for their treatment.
 - f. Eliminate specific statutory requirements pertaining to exposure of genitals during drug testing.
 - g. Specify that if a person is participating in any evidence-based substance use disorder treatment program as determined by DOJ, regardless of its status relating to the TAD program, the court does not need to order a substance use assessment.
 - h. Beginning in 2021-22, change the competitive grant process from a five-year cycle to a four-year cycle.
 - i. Specify that modifications to TAD would first apply to grants awarded on or after the effective date of the bill.
2. Eliminate the 25% match requirement.
3. Take no action.

E. TAD Funding Expansion

1. Provide \$15,000,000 GPR and 2.0 GPR positions in 2022-23 to expand the Treatment Alternatives and Diversion program.

ALT E1	Change to Base	
	Funding	Positions
GPR	\$15,000,000	2.00

2. Provide \$7,500,000 GPR and 2.0 GPR positions in 2022-23 to expand the Treatment Alternatives and Diversion program.

ALT E2	Change to Base	
	Funding	Positions
GPR	\$7,500,000	2.00

3. Provide \$2,500,000 GPR and 2.00 GPR positions in 2022-23 to expand the Treatment Alternatives and Diversion program.

ALT E3	Change to Base	
	Funding	Positions
GPR	\$2,500,000	2.00

4. Provide \$82,100 GPR in 2021-22 and \$99,500 GPR in 2022-23, and 1.0 GPR position annually, to conduct the survey for new treatment courts and help with implementation and the maintenance of new treatment programs.

ALT E4	Change to Base	
	Funding	Positions
GPR	\$181,600	1.00

5. Take no action.

Prepared by: Sarah Wynn
Attachments

ATTACHMENT 1

Treatment Alternatives and Diversion Grant Projects, 2019

Grantee	Award	Project Type	Project Description
Adams County	\$69,519	Hybrid Court	Funds continue to support operations for the Adams County Hybrid Treatment Court, which includes the treatment court coordinator (salary & benefits), various office supplies, monitoring services, training for the treatment court team, and drug testing services. The expansion funding will fund a part-time Peer Support Specialist, rental assistance for participants, and travel costs for participants and volunteer drivers.
Ashland County	\$97,915	Diversion Program	Funds will be used to continue TADPRO (treatment, alternatives, and diversion with track level implementation). The program uses an intervention/dosage model based on the participants' risk/needs level determined using the COMPAS, LSI-R, or GAIN assessments to determine the participants' level of intervention and treatment needs.
Barron County	\$26,962	Hybrid Court	Funds employ a part-time coordinator/case manager position and benefits to assist in the operation of the program. The funds send team members to training events and support the costs of MRT groups and Support Groups.
Bayfield County	\$125,078	Hybrid Court	Funding supports a 4-phase system program using an intervention/dosage model based upon participant's risk and needs level utilizing the COMPAS assessment. With funding, the team will be able to participate in current training trends supported by WATCIP allowing for enhanced implementation of evidence based practices with participants.
Brown County	\$159,712	Drug Court; Diversion Program	Grant funds will be utilized by the Brown County Treatment Alternatives and Diversion Program in coordination with the Criminal Justice Coordinating Board (CJCB) in effort to maintain and enhance our established treatment courts and diversion program; each of which operates to individually meet the specific treatment needs of non-violent offenders in Brown County whom are charged with criminal actions related to their drug and alcohol abuse.
Buffalo/Pepin County	\$125,286	Diversion Program	Funds operate a dedicated Community Justice Services agency to conduct a universal assessment of all nonviolent adult offenders to inform setting risk based conditions of pretrial release, to determine eligibility for pre-charging and post-charging diversion, and provide risk based alternatives to incarceration at sentencing addressing substance abuse risks and needs.

Grantee	Award	Project Type	Project Description
Burnett/Washburn County	\$125,000	Hybrid Court	Funds sustain the joint Matrix Intensive Outpatient program that serves all TAD programming, and a large portion of Northwest Wisconsin. Furthermore, the TAD funding allows for intense wraparound services that includes frequent drug and alcohol testing, intensive case management, immediate incentives and sanctions and consistent community programming.
Chippewa County	\$115,327	Diversion Program	Funds will be used to continue implementation of its TAD and First Time Offender Diversion Programs. Specifically, funds will be used to support the Diversion Specialist and part-time Assessor/Programmer position. The Diversion Specialist provides case management services, completes COMPAS assessments, monitors drug testing compliance, provides cognitive behavioral programming for participants, and runs the First Time Offender Program. The Assessor/Programmer position will complete pre-trial and COMPAS assessments, and offer Evidence Based programs to TAD and Drug Court participants.
Columbia County	\$204,124	OWI Court; Drug Court	Funds will be used by Columbia County Health and Human Services, in partnership with the Columbia County Criminal Justice Coordinating Council and a variety of other criminal justice partners, to continue operations of a Drug Treatment Court and an Operating while Intoxicated Treatment Court.
Crawford County	\$108,030	Hybrid Court	Crawford County Treatment Court is designed to provide an alternative to incarceration for non-violent offenders who abuse alcohol or other drugs.
Dane County	\$214,931	Drug Court; Diversion Program	Funds will be used to enhance both the Drug Court Diversion Program and the Opiate Diversion Project in Dane County. The Dane County Drug Court Diversion Program, a problem-solving court for individuals at moderate risk to re-offend, will be enhanced through continued development of a cognitive-behavioral approach that is more specific to the population being served. The Opiate Diversion Project, a pretrial diversion program for opiate offenders, will be enhanced by an evaluation of program outcomes and an assessment instrument that has been developed specifically for the program. These enhancements will increase conformity to evidence-based practices, which are expected to increase positive outcomes for individual participants.
Dodge County	\$209,620	OWI Court; Drug Court	Funds will be used by Dodge County to support a Drug Treatment Court and an OWI Treatment Court.
Door County	\$141,011	Drug Court	Door County Department of Health and Human Services, in collaboration with Door County's Circuit Court Judges, District Attorney's Office, Clerk of Courts, Law Enforcement, and the Criminal Justice Collaborating Council will use funds to implement a treatment court.
Douglas County Health and Human Services	\$108,031	Drug Court	Funds will be used by the Douglas County Treatment Court to serve participants convicted of drug and/or alcohol related offenses.

Grantee	Award	Project Type	Project Description
Dunn County	\$99,566	Diversion Program	Funds will be used by Dunn County to implement a pretrial diversion program to divert nonviolent offenders facing criminal charges related to use of drugs and/or alcohol from the criminal justice system into treatment. Funds will be used to pay employ a full time Criminal Justice Assessor to assess offenders' risk, need, and responsivity factors and screen and refer for TAD program eligibility. Funds will cover wages and benefits for the Assessor, office supplies, drug testing services, and staff travel and training.
Eau Claire County	\$137,213	Multiple Treatment Courts	Funds will be used by the Eau Claire County Department of Human Services (ECCDHS) to support the provision of evidence-based treatment and services to treatment court participants. Grant dollars will be used to fund regular alcohol and drug testing for individuals in the tri-county Veterans Treatment Court (VTC) in order to promote accountability and monitor progress, as well as to ensure access to needed substance abuse and mental health treatment. Likewise, TAD money will be used to provide a higher fidelity, criminal justice version of the intensive AODA outpatient Matrix Model to participants in the county's Alternatives to Incarcerating Mothers (AIM) and Mental Health courts. Finally, funds will enable treatment court team members to attend training on evidence-based and best practices within the field.
Grant County	\$119,572	OWI Court; Drug Court	Grant funds will be used by the Grant County Treatment Court to support its Drug Court and OWI Court. The funds will support the position of the Treatment Court Coordinator, which will enhance the intensity and accountability of the Treatment Courts by providing hands-on oversight and guidance to Participants and the Treatment Court Team. Participants are individuals convicted of crimes related to or impelled by their substance abuse.
Ho-Chunk Nation	\$72,615	Healing to Wellness Court	Funds will be used by the Ho-Chunk Nation to hire a part-time assistant to help manage the daily activities of the Healing to Wellness Court. The funds will also be used to assist with training costs for team members, UA expenses, and various supplies and operating expenses that are needed for daily Healing to Wellness Court operations.
Iowa County	\$65,046	Drug Court	Funds will be used by Iowa County to support continued operation of its Drug Treatment Court through the funding of the treatment court coordinator, treatment services, drug and alcohol testing supplies, transportation and housing aid, and training for the treatment court team.
Jackson County	\$88,000	Diversion Program	Funds will be used by the Jackson County CJCC to operate a post-charge diversion program, targeting offenders assessed as medium/moderate risk and needs related to substance use disorders.

Grantee	Award	Project Type	Project Description
Jefferson County	\$174,020	Drug Court; OWI Court	Funds will be used by the Jefferson County CJCC to sustain an OWI Treatment Court, which started in 2013, and a Drug Treatment Court, which was started in August 2017. The Jefferson County Treatment Courts will use the funds to contractual costs to cover salary and benefit expenses for the case managers, the Treatment Court Coordinator position, various office supplies and training.
Kenosha County	\$124,500	Drug Court	Funds will be used to support operations of the Kenosha County Treatment Court through the use of random drug and alcohol testing, staff development training for team members, clinical assessments and coordination, medication assisted treatment, and internal evaluation.
La Crosse County	\$156,885	Diversion Program	Funds will be used by La Crosse County Justice Support Services to support staffing of pre- and post-charge diversion supervision.
Lac du Flambeau Band of Lake Superior Chippewa Indians	\$113,294	Healing to Wellness Court	Funds awarded to Zaagiibagaa Healing to Wellness Court will successfully divert participants from incarceration and reintegrate them into their culture and community through activities and therapy that supports sober living and uses evidence-based curriculum to achieve program goals for 2020. The grants funds will be used to support 70% of the Coordinator's salary and benefits, travel and training expenses to ensure continuing education of the Team. Funds will also be used to cover supplies for hands-on learning of traditional practices and cultural gatherings, which will be included in graduations, self-care socials and Healthy Living projects. Contractual funds have been designated for participants needing inpatient treatment and could also be used to assist with housing needs.
Lafayette County	\$118,533	OWI Court	Lafayette County Circuit Court will use the funds to create an OWI court program. The grant will fund personnel costs of the AODA Treatment Provider/case manager salary/benefits and 20% coordinator salary/benefits; training for staff and CJCC members; and assessment and drug testing materials.
Manitowoc County	\$142,396	Drug Court; Diversion Program	Continued implementation of the Pre-Trial Diversion and Adult Drug Court programs.
Marathon County	\$150,000	Drug Court	The funds will be used by Marathon County to implement an evidence based Drug Treatment Court which will adhere to the Ten Key Components and the Wisconsin Treatment Court Standards. The goals of the program are to promote self-sufficiency in program participants by reducing drug use through individual participation in a community based integrated program of drug treatment and rehabilitation services. In addition to improving public health, it is the goal of Marathon County to improve public safety by reducing the number of drug related crimes within Marathon County. The program will divert offenders with nonviolent crimes linked to substance abuse from jail, reduce recidivism and increase public safety.

Grantee	Award	Project Type	Project Description
Marinette County	\$203,770	Drug Court	Funds will be used by Marinette County to support the salary and benefits of the Treatment Court Coordinator and expansion funding will be used to fund a full-time case manager position to help increase capacity in the program. The grant will also help fund training events for the treatment court team and will help cover the cost of drug and alcohol testing.
Marquette County	\$100,082	Hybrid Court	Funds will be used by Marquette County Department of Human Services, in partnership with the District Attorney, Probation & Parole, Law enforcement, the Court and the Public Defender's office to reduce recidivism rates for non-violent offenders in the program and increase public safety as well as reduce prison and jail populations by diverting non-violent offenders to community based interventions. In addition, the program plans to increase the number of program participants as well as expand law enforcement's participation in the recovery process of the participants in Marquette County.
Menominee Indian Tribe of Wisconsin	\$98,148	Diversion Program	Funds will be used by the Menominee Probation and Parole to ensure direct coordination for pre- or post-charged, low-risk defendants who qualify and are referred into the Kakaecce Diversion Program. Funds will be used to support the salaries and benefits of the Diversion Coordinator and Resource Coordinator, as well as cover some training and supplies costs.
Milwaukee County	\$380,981	Diversion Program	Funds will be used to contract with JusticePoint, a private non-profit agency, to identify individuals arrested for non-violent offenses who have substance abuse and/or co-occurring mental health disorders who are eligible for deferred prosecutions. The enhancement funds will be used to contract with JusticePoint for screening and community supervision services for TAD participants.
Monroe County Justice Department	\$69,401	OWI Court; Drug Court	Funds will be used by Monroe County's OWI & Drug Treatment Courts to implement a Recovery Peer Support/Mentorship Program, hire a Mental Health provider and cover training costs for the treatment court teams in 2020. Funds will also be used to send team members to training. Funds will also be used to fund a mental health provider.
Outagamie County	\$178,343	Drug Court; Diversion Program	Funds continue to enhance both evidence-based program services and participant services throughout our diversion and treatment courts. These TAD enhancement funds will continue to support drug and alcohol testing, treatment court team training, Level 3 substance use disorder treatment services, treatment court incentives, and transitional/sober living rental assistance.
Ozaukee County	\$125,930	Diversion Program	Funds will be used by the Ozaukee County Criminal Justice Collaborating Council to support the existing diversion programs, which include a Pre-Charge/Post-Charge Diversion/Deferred Prosecution Agreement program and a Post-Charge, Alternatives to Revocation Diversion program. Grant funds will support the salaries and benefits of the

Grantee	Award	Project Type	Project Description
			programs' Administrator and Coordinator, will cover alcohol and drug testing supplies, and will cover MAT expenses.
Pierce County	\$205,777	OWI Court; Diversion Program	Funds will be used to continue operations of three programs: Intoxicated Driver Improvement Diversion Program, Pre-charge/post-charge Diversion Program, and an OWI Court.
Polk County	\$150,118	Drug Court; Diversion Program	Funding will be used to cover the salary and benefits of the Treatment Court Case Manager. Expansion funding will be used to increase capacity in the Diversion Program by funding a full-time Diversion Program Case Manager position and drug and alcohol testing supplies.
Portage County	\$76,187	Drug Court; Diversion Program	Funds will be used to continue the Portage County Adult Drug Treatment Court and to fund a full-time Case Manager position in the Diversion Program.
Racine County	\$124,975	Drug Court	Funds will be used by the Racine County Alcohol and Drug Treatment Court to expand drug and alcohol testing, provide comprehensive mental health screenings, provide staff development training for treatment court team members, as well as maintain the Program Coordinator position, incentives and wraparound services.
Rock County	\$125,000	Drug Court	Grant funding will be used to provide case management and treatment services for Drug Treatment Court. Drug Court is a collaborative justice system diversion opportunity for medium and high-risk, non-violent offenders with an underlying substance use disorder. Successful participants will be diverted from incarceration and will see their charges reduced or dismissed upon completion.
Rusk County	\$123,144	Hybrid Court	Funds will be used to provide intensive treatment, monitoring, and supervision for participants with AODA addictions who will be involved in an outpatient treatment program provided mainly by Aurora Community Counseling. Due to lack of credentialed service providers in specialized areas, the grant will be used to enhance program services by utilizing providers within neighboring areas.
Sauk County	\$116,733	Hybrid Court	Funds will be used to operate the Sauk County Hybrid Treatment Court. Funds will be used for salary and benefits for a Case Coordinator, relevant training for the team, various office supplies, drug testing supplies, participant incentives, and treatment costs.
Shawano County	\$107,347	Drug Court	Funding will be used by the Shawano County Department of Human Services to implement a Drug Court in Shawano County. Grant funds requested will be used to cover the costs of the Drug Court Coordinator, training expenses, drug testing, and treatment services.

Grantee	Award	Project Type	Project Description
Sheboygan County	\$93,079	Hybrid Court	Funds will be used by the Sheboygan County Drug & Alcohol Treatment Court to enhance ongoing operations of the program by increasing capacity.
St. Croix County	\$146,517	Drug Court; OWI Court; Diversion Program	Funds will be used to support two positions, a Case Management/COMPAS Assessor for Drug Court, OWI Court, and Case Management Specialist for Diversion Programs.
Taylor County	\$100,000	Hybrid Court	Funding will support the salary and benefits of the treatment court coordinator, training, incentives, a case management system, and drug testing expenses.
Trempealeau County	\$110,000	Hybrid Court	The funding will be used to cover the majority of the salary & benefits of the Recovery Court Case Manager position, training, residential treatment, testing supplies and a peer support specialist.
Walworth County	\$195,000	Drug Court; Diversion Program	Funds will be used to support the operations of the Walworth County Drug Court, an OWI Diversion Program, and a Disorderly Conduct Diversion Program for non-violent offenders involved in the criminal justice system due to alcohol and/or drug use disorders.
Washington County	\$96,720	Diversion Program	Funds will be used to cover the costs of a program coordinator, drug testing expenses and training needs to continue operations of the post-charge, deferred prosecution agreement, diversion program.
Waukesha County	\$139,680	Drug Court	Funds will be used by the Waukesha County Criminal Justice Collaborating Council (CJCC) to maintain 1 full-time Case Manager for the Waukesha County Drug Court program, allowing for up to 25 clients to be served with a total program capacity of up to 60 participants with supplemental federal funding. Rigorous drug testing and client assistance (i.e. transportation) expenses will also be included in the budget, as well as a part-time Recovery Coach Coordinator who will recruit, train, and supervise volunteer Recovery Coaches assigned to TAD clients in the program.
Waushara County	\$89,782	Hybrid Court	Funds will be used to support the continued operation of a hybrid OWI/adult drug treatment court program.
Wood County	\$140,000	Drug Court	Funds will be used by the Wood County Drug Court program and Wood County Human Services to provided treatment and supervision services to high risk/ high need drug addicted people of Wood County. Funds will be used to cover court staff, treatment court training, drug testing, outpatient treatment, risk and need assessments, and inpatient services.
Total	\$6,688,900		

ATTACHMENT 2

Drug Court Grant Awards, Calendar Year 2019

Grantee	Award	Project Type	Project Description
Adams County	\$28,470	Hybrid Court	Funds will be used to continue to support operations for the Adams County Hybrid Treatment Court, which includes the Treatment Court Coordinator (salary and benefits), various office supplies, monitoring services, training for the Treatment Court Team, and drug testing services. The expansion funding will fund a part-time Peer Support Specialist, rental assistance for participants, and travel costs for participants and volunteer drivers.
Green County	122,900	Drug Court	Funding will be used by Green County Human Services to support operations of a drug treatment court. The grant will fund the Drug Court Coordinator and AODA Counselor salaries, training for staff, detox and transportation services, and drug testing materials.
Green Lake County	101,130	Drug Court	Funds will be used by the Green Lake County Treatment Court Program for the coordinator's salary and benefits, drug screening supplies and lab services, treatment services, and training for members of the Treatment Court Team.
Portage County	125,000	Drug Court; Diversion Program	Funds will be used to continue the Portage County Adult Drug Treatment Court and to fund a full-time Case Manager position in the Diversion Program.
Richland County	122,500	OWI Court	Funds will be used to cover the OWI Treatment Court Coordinator position salary and benefits. The grant funds also support necessary supplies and equipment to manage program participants, based on principles of restorative justices that provides an alternative to incarceration for criminal offenders who are alcohol dependent.
Total	\$500,000		

*Adams County will receive a total of \$97,989 from both the TAD program and the drug court grant program (see Appendix VIII). Funding will be split as follows: \$69,519 from the TAD program and \$28,470 from the drug court grant program.

*Portage County will receive a total of \$201,187 from both the TAD program and the drug court grant program (see Appendix VIII). Funding will be split as follows: \$76,187 from the TAD program and \$125,000 from the drug court grant program



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

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.

Prepared by: Sarah Wynn



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #397

Internet Crimes Against Children (Justice)

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

CURRENT LAW

Local units of government are primarily responsible for law enforcement protection and investigating potential crimes. In addition, state statute requires the Department of Justice (DOJ) to investigate crimes that are statewide in nature, importance, or influence. Section 165.70 of the statutes specifically requires DOJ to enforce, among other crimes, the use of a computer to facilitate a child sex crime.

The Internet Crimes Against Children (ICAC) task force unit at DOJ is responsible for investigating internet crimes against children in conjunction with other law enforcement partners in the ICAC Task Force. The budget for the ICAC Unit at DOJ in 2020-21 is \$5,304,200 (all funds) and 38.0 positions. The unit's total funding is comprised of \$4,227,500 GPR, \$820,800 PR, and \$255,900 FED, supporting 36.0 GPR and 2.0 FED positions. The unit's program revenue-funded budget is supported by the \$13 crime laboratory and drug law enforcement (CLDLE) surcharge and the deoxyribonucleic acid (DNA) surcharge.

The Department's drug law enforcement, crime laboratories, and genetic evidence activities appropriation is supported by revenue from the CLDLE surcharge and the DNA surcharge. More specifically, money is transferred from the CLDLE and DNA surcharge fund appropriation to the drug law enforcement appropriation. The drug law enforcement appropriation supports activities relating to drug law enforcement, drug law violation prosecution assistance, criminal investigative operations, and activities of the state and regional crime laboratories. Base funding for the drug law enforcement appropriation is \$9,317,000 PR annually.

DISCUSSION POINTS

1. The Wisconsin ICAC task force was created in 1998 with federal funding to counter the threat of offenders using online technology to sexually exploit children. The task force conducts investigations, provides investigative, forensic and prosecutorial assistance to police agencies and prosecutors, encourages statewide and regional collaboration, and provides training for law enforcement, prosecutors, parents, teachers, and other community members. The task force also coordinates with the Wisconsin Clearinghouse for Missing and Exploited Children to provide support services to children and families that have experienced victimization. As of August, 2020, all 271 law enforcement agencies, including DOJ, participating in the Wisconsin ICAC task force.

2. Internet crimes against children cases generally fall into four broad categories: (a) investigations of cyber-tips received from individuals and internet service providers through the National Center for Missing and Exploited Children; (b) online child enticement investigations; (c) "peer-to-peer" 34 investigations; and (d) cases involving other law enforcement agencies. In 2019-20, the ICAC task force opened 3,547 ICAC investigations. The Division took the lead on 520 investigations in 2019-20.

3. All 271 law enforcement agencies participating in the Wisconsin ICAC task force have a capacity to conduct "reactive" ICAC investigations, responding to tips or information that an Internet crime against a child may have occurred. In addition, many of these agencies can also conduct "proactive" investigations, such as peer-to-peer investigations and online child enticement investigations.

4. In 2000, Congress mandated that all internet service providers register and report any child pornography on their servers to the cyber-tiplines program at the National Center for Missing and Exploited Children. In 2019-20, the Wisconsin ICAC task force received 2,993 cyber tips from the National Center for Missing and Exploited Children. From these cyber tips, the ICAC task force opened 1,507 cases, of which 945 were investigated by DOJ and the remaining 2,048 were referred to affiliate law enforcement agencies. When the ICAC task force receives multiple cyber tips involving the same suspect, these cyber tips are consolidated into a single case for subsequent follow-up by DOJ or affiliated law enforcement agencies.

5. In 2019-20, the Wisconsin ICAC task force made 478 arrests. Of the 478 arrests made by the Wisconsin ICAC task force in 2019-20, 61 arrests were made by DOJ special agents. The Department staff indicates that it does not currently have an electronic reporting system that would permit it to report the case types to which these arrests could be attributed, either for the ICAC task force as a whole or for DOJ.

6. Under 2017 Act 59 and again under 2019 Act 9, \$750,000 PR was provided in each year of the biennium on a one time basis. Revenue was transferred from the crime laboratory and drug law enforcement surcharge and the DNA analysis surcharge. Funding was used to support: (a) overtime for DCI and local law enforcement ICAC affiliates to increase the number of cases investigated and ensure prompt investigation of tips; (b) for critical equipment; (c) advanced and basic training for the ICAC task force; (d) vehicles for DCI ICAC to expand on-site evidence previews statewide; (e) staff LTEs to help manage tips from the National Center for Exploited and Missing Children; and (f) to

provide investigative support to ICAC investigators through WSIC [Wisconsin Statewide Intelligence Center].

7. Assembly Bill 68/Senate Bill 111, would provide \$750,000 PR annually during the 2021-23 biennium only to support law enforcement activities relating to ICAC. The administration intends for program revenue for these costs to be supported from a transfer of monies from DOJ's CLDLE and DNA surcharge fund. Under the bill, the fund is projected to have an opening balance of \$3,585,400 and to conclude the 2021-23 biennium with a balance of \$3,486,700. It should also be noted that, under the bill, the fund is estimated to operate in an imbalance during the 2021-23 biennium. In 2021-22, total obligations (\$17,398,600) are estimated to exceed annual revenue (\$17,300,000) by \$98,600. In 2022-23, total obligations would equal annual revenue.

8. The Department indicates that "approximately half of the funding would continue to support overtime for ICAC investigators statewide to keep up with tips and caseloads." In addition, the funding would support ongoing training due to high turnover and would expand forensic investigative capacity. Further, funding would be used for ongoing maintenance and licensing on forensic hardware and lifecycle replacement.

9. In order to provide DOJ additional funds for law enforcement activities related to ICAC, the Committee could provide \$750,000 PR annually during the 2021-23 biennium to DOJ's ICAC appropriation. [Alternative 1] Under this alternative, funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's drug law enforcement PR appropriation.

10. The Committee could also approve a reduced level of funding for the ICAC appropriation, as compared to the amount recommended in AB 68/SB 111. Specifically, the Committee could provide DOJ with \$375,000 PR annually. [Alternative 2] Under this alternative, funding for ICAC would be supported by a transfer of funds from DOJ's drug law enforcement appropriation and would result in a concluding 2022-23 revenue balance of \$4,236,700, and the not incur a structure deficit.

11. The Committee could also maintain current law and not provide DOJ additional resources at this time for the ICAC appropriation [Alternative 3]. Providing funding for the ICAC appropriation by transferring funds from DOJ's CLDLE and DNA surcharge fund appropriation would reduce the balance in the fund and increase the fund's estimated structural imbalance during the 2021-23 biennium.

ALTERNATIVES

1. Provide DOJ's ICAC appropriation \$750,000 PR annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's CLDLE surcharge and the DNA surcharge.

ALT 1	Change to Base
PR	\$1,500,000

2. Provide DOJ's ICAC appropriation \$375,000 PR annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's CLDLE surcharge and the DNA surcharge.

ALT 2	Change to Base
PR	\$750,000

3. Take no action.

Prepared by: Sarah Wynn



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #398

County Victim Witness Reimbursement Appropriation (Justice)

[LFB 2021-23 Budget Summary: Page 370, #7]

CURRENT LAW

Under current law, counties are eligible to receive reimbursement from the state for not more than 90% of the costs incurred in providing victim and witness services. To be eligible for reimbursement, a county must provide all of the following services to victims and witnesses:

- Court appearance notification services, including cancellation of appearances;
- Victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information;
- Escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable;
- Case progress notification services which may be combined with court appearance notification services;
- Assistance in providing the court with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony;
- Employer intercession services;
- Expedited return of property services;
- Protection services;
- Family support services, including child and other dependent care services; and

- Waiting facilities.

In addition to these victim and witness services, counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:

- Explanation, in language understood by the child, of all legal proceedings in which the child will be involved;
- Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand the proceedings and questions;
- Advice to the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child; and
- Information about and referrals to appropriate social services programs to assist the child and child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

Reimbursable County Costs. Under administrative rule Jus 12.02(15), the following categories of county costs are reimbursable under the program:

1. Salaries and benefits;
2. Overtime and night differentials;
3. Travel expenses;
4. Space rental;
5. Staff development, including registration fees, travel to and from training and conferences, meals, lodging, membership dues, subscriptions, and library materials;
6. Public information, including the printing of brochures and similar projects;
7. Local and long distance telephone costs;
8. Maintenance, repair and replacement of equipment;
9. Office supplies;
10. Equipment or non-expendable personal property having a useful life of more than one year and acquisition cost of more than \$500; and
11. Contractual services.

Program Administration and Funding. If a county wishes to be reimbursed, the county

board must annually submit a program plan to the Department of Justice (DOJ) for approval. The plan must describe the level of services to victims and witnesses that the county plans to provide; the personnel or agencies responsible for programs and services; proposed staffing for the program; proposed education, training and experience requirements for program staff; and the county's budget for implementing the program. The plan must also provide that the district attorney, local law enforcement agencies, and the courts will make all non-confidential reports and files available to program staff, as required to carry out their responsibilities.

To receive reimbursement, a county board must file a reimbursement claim with DOJ. The Department, in turn, determines the level of services for which a county may be reimbursed based on a county's level of staffing for the program. The approved level of staffing is determined by the caseload, number of prosecutors, and justified need.

DISCUSSION POINTS

1. The actual percentage of county costs that is reimbursed varies each year depending upon the availability of state funds, the costs of the counties' approved programs, and the number of counties operating approved programs. In 2019-20, counties reported aggregate costs of \$12,915,700 (all funds) under the program. Table 1 summarizes, for the last 10 fiscal years, the reported annual county costs for approved programs of participating counties, the annual state reimbursements, and the percentage of county costs actually reimbursed. Attachment 1 summarizes the amounts reimbursed to each county during this same 10-year period.

TABLE 1

State Reimbursement to Counties

<u>Fiscal Year</u>	<u>Reported County Costs</u>	<u>Amount of State Reimbursement</u>	<u>Percentage of Counties' Cost Reimbursed</u>
2010-11	\$11,094,600	\$6,724,700	61%
2011-12	10,885,100	4,712,500	43
2012-13	10,906,700	5,125,700	47
2013-14	11,375,600	6,328,400	56
2014-15	11,302,500	6,209,900	55
2015-16	11,716,800	6,361,600	54
2016-17	11,996,600	6,348,300	53
2017-18	12,369,400	6,082,600	49
2018-19	12,626,500	6,119,600	48
2019-20	12,915,700	5,849,200	45

2. Prior to 2013 Wisconsin Act 20, reimbursement payments to the counties for victim and witness services were funded from both general purpose revenue and program revenue sources. Under 2013 Act 20, \$1,267,200 GPR in base funding was eliminated and reimbursements to counties was entirely funded from the following program revenue sources: (a) the crime victim and witness

assistance surcharge; (b) the delinquency victim and witness surcharge; and (c) the penalty surcharge.

3. In 2019-20, \$5,849,200 program revenue (PR) was provided to the counties as reimbursement for victim and witness services; comprised of: (a) \$5,100,300 from the crime victim witness surcharge and delinquency crime victim witness surcharge; and (b) \$748,900 from the penalty surcharge. The Department estimates that in 2020-21, it will expend \$5,771,900 on reimbursement payments to counties for victim and witness services, comprised of: (a) \$5,023,000 from the crime victim witness surcharge and delinquency crime victim witness surcharge; and (b) \$748,900 from the penalty surcharge revenue.

4. The crime victim and witness surcharge is assessed against any person who is convicted of a misdemeanor or felony violation of state law, and may not be waived, reduced, or forgiven for any reason. The surcharge totals \$67 for each misdemeanor count on which a conviction occurs and \$92 for each felony count on which a conviction occurs. The crime victim and witness surcharge is also imposed on civil offenses if: (a) a person is charged with one or more crimes in a complaint; and (b) as a result of the complaint being amended, the person is charged with a civil offense in lieu of one of those crimes. The amount of the surcharge applied to the civil offense is based on whether the original underlying charge was a felony charge (in which case a \$92 surcharge would be assessed), or a misdemeanor charge (in which case a \$67 surcharge would be assessed). The delinquency crime victim witness surcharge is imposed on any juvenile adjudged delinquent. The surcharge is \$20.

5. Table 2 details the amounts of crime victim and witness surcharge revenues collected during each of the last 10 fiscal years. Included in the amounts listed Table 2 is revenue generated from the delinquency crime victim and witness surcharge.

TABLE 2

Crime Victim and Witness Surcharge Revenues Collected

<u>Fiscal Year</u>	<u>Amount*</u>
2010-11	\$5,411,600
2011-12	5,669,700
2012-13	5,460,400
2013-14	5,793,800
2014-15	5,669,300
2015-16	5,456,200
2016-17	4,371,400
2017-18**	6,553,000
2018-19	5,658,200
2019-20	5,015,300

*Amounts include revenue from both the crime victim and witness surcharge and the delinquency crime victim and witness surcharge.

**Note that \$1,097,600 of the revenue in 2017-18 was collected by the Department of Corrections in 2016-17.

6. Assembly Bill 68/Senate Bill 111, would provide \$4,000,000 GPR annually in a new annual appropriation to reimburse counties for services provided to victims and witnesses of crime. In addition, the bill would reduce PR funding for county victim witness reimbursement provided from the penalty surcharge by \$748,900 PR annually and instead provide \$748,900 GPR annually. Base funding of \$748,900 is currently provided by program revenue from the crime and delinquency victim witness surcharges and the penalty surcharge.

7. The administration indicates that the \$4,000,000 annually was intended to bring the total amount available to counties for reimbursement up to 75% of reported expenses based on 2019-20 data.

8. Under the bill, total funding for county victim services would increase to \$9,748,900 in 2021-22 (\$4,748,900 GPR and \$5,000,000 PR funded from the county victim services assessment) and \$9,618,900 in 2022-23 (\$4,748,900 GPR and \$4,870,000 PR funded from the county victim services assessment).

County Victim and Witness Services and the Penalty Surcharge

9. Under current law, when a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, a penalty surcharge is imposed totaling 26% of the fine or forfeiture. Revenue from the penalty surcharge is deposited in the Department of Justice's (DOJ) penalty surcharge; receipts appropriation (henceforth called the penalty surcharge fund). Penalty surcharge revenue received by the fund is transferred to state agencies to support various programs related to the criminal justice system. In 2020-21, the fund was statutorily required to support the amounts identified in Table 3 below.

TABLE 3
Penalty Surcharge Fund Obligations, 2020-21

		Amount Appropriated in 2020-21
<u>Obligation</u>		
Justice	Law enforcement training fund; local assistance	\$4,364,800
	Law enforcement training fund; state operations	3,267,900
	Drug enforcement intelligence operations	2,199,100
	Reimbursement for county victim-witness services	748,900
	Drug crimes enforcement; local grants	717,900
	Transaction information management of enforcement (TIME) system	730,300
	Youth diversion grant program	672,400
	Law enforcement programs and youth diversion - administration	140,400
Public Instruction	Aid for alcohol and other drug abuse programs	1,284,700
	Alcohol and other drug abuse programs	618,900
Corrections	Correctional officer training	2,612,500
	Victim services and programs	318,600
Circuit Courts	Court interpreters	232,700
Public Defender	Conferences and training	<u>194,400</u>
Total		\$18,103,500

10. In recent years the penalty surcharge fund has operated in deficit. In 2019-20, the penalty surcharge fund concluded the fiscal year with a cumulative deficit of \$17,565,100. The Department of Justice estimates that the penalty surcharge fund will close the 2020-21 state fiscal year with a cumulative deficit of \$20,668,600. Even with the other modifications to the penalty surcharge proposed by the budget bill, the administration estimates that the appropriation will end the 2021-23 biennium with a deficit of \$25,582,400. The table below identifies the condition of the fund from 2016-17 through 2020-21.

TABLE 4

Penalty Surcharge Fund Condition, 2011-12 thru 2020-21

	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>
Opening Balance	-\$3,701,100	-\$5,601,300	-\$7,971,900	-\$10,631,400	-\$12,607,100	-\$17,565,100
Revenues	15,135,100	14,572,600	14,448,100	15,583,300	13,568,900	15,000,000
Obligations	17,035,300	16,943,200	17,107,600	17,559,000	18,526,900	18,103,500
Ending Balance	-5,601,300	-7,971,900	-10,631,400	-12,607,100	-17,565,100	-20,668,600

11. In order to continue to support the county victim and witness services programs and begin to address the deficit in the penalty surcharge appropriation, the Committee could provide GPR for the program. [Alternative A1] This alternative would result in \$748,900 GPR and -\$748,900 PR annually for county victim and witness service programs to replace penalty surcharge funding with GPR and create an annual GPR appropriation to provide funding for the program.

12. While lessening the potential overdraft of the penalty assessment, shifting the county victim and witness services program to GPR will not eliminate the appropriation overdraft. As such, any amount of GPR provided for the program will begin to reduce the use of penalty assessment revenues. To this end, a lesser amount of GPR could be provided. For example, to help address the deficit by decreasing demand on the appropriation, the Committee could provide half the amount of GPR, and maintain half the PR funding for the program. [Alternative A2] This alternative would reduce the program's reliance on the penalty surcharge and result in \$374,500 GPR and -\$374,500 PR annually for the program.

13. As constituted prior to 2013 Act 20, the reimbursement to counties for victim and witness services contained a GPR funding component. In order to increase the amount that counties are reimbursed for their victim and witness programs and provide anew GPR support, the Committee could provide additional GPR for the program. [Alternative B1] This alternative would result in \$4,000,000 GPR annually in a new annual appropriation to reimburse counties for services provided to victims and witnesses of crime.

14. Given that state support for county victim services has recently been below 50% of reimbursable costs, additional GPR amount to support county victim and witness services programs could be of assistance. For example, if the Committee wished to increase reimbursement to 60%, \$2,000,500 GPR in 2021-22 and \$2,130,500 GPR in 2022-23 could be provided. [Alternative B2] This alternative would provide more GPR funding than had last been provided to the program.

Reimbursement at this percentage would approximate that highest level in the last 10 years (61% in 2010-11).

15. Reimbursing counties at 50% of reimbursable costs would require \$709,000 GPR in 2021-22 and \$839,000 GPR in 2022-23. [Alternative B3]

16. On the other hand, Committee may not wish to take no action. [Alternative B4]. As a result, the grant program would remain funded from crime victim witness surcharge and penalty surcharge revenues.

ALTERNATIVES

A. Replace Penalty Surcharge Funding

1. Provide \$748,900 GPR annually in a new annual appropriation to reimburse counties for services provided to victims and witnesses of crime. In addition reduce PR funding for county victim witness reimbursement provided from the penalty surcharge by \$748,900 PR annually.

ALT A1	Change to Base
GPR	\$1,497,800
PR	<u>- 1,497,800</u>
Total	\$0

2. Provide \$374,500 GPR annually in a new annual appropriation to reimburse counties for services provided to victims and witnesses of crime. In addition reduce PR funding for county victim witness reimbursement provided from the penalty surcharge by \$374,500 PR annually.

ALT A2	Change to Base
GPR	\$749,000
PR	<u>- 749,000</u>
Total	\$0

3. Take no action.

B. Additional GPR Funding

1. Provide \$4,000,000 GPR annually in a new annual appropriation to reimburse counties for services provided to victims and witnesses of crime. [Reimbursement would be provided at an estimated 75% of reimbursable costs.]

ALT B1	Change to Base
GPR	\$8,000,000

2. Provide \$2,000,500 GPR in 2021-22 and \$2,130,500 GPR in 2022-23 in a new annual appropriation to reimburse counties for services provided to victims and witnesses of crime. [Reimbursement would be provided at an estimated 60% of reimbursable costs.]

ALT B2	Change to Base
GPR	\$4,131,000

3. Provide \$709,000 GPR in 2021-22 and \$839,000 GPR in 2022-23 in a new annual appropriation to reimburse counties for services provided to victims and witnesses of crime. [Reimbursement would be provided at an estimated 50% of reimbursable costs.]

ALT B3	Change to Base
GPR	\$1,548,000

4. Take no action.

Prepared by: Sarah Wynn
Attachment

ATTACHMENT

Reimbursement to Counties Administering Victim and Witness Services Programs

<u>County</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>
Adams	\$41,500	\$29,300	\$31,000	\$31,400	\$26,200	\$26,100	\$25,500	\$19,900	\$26,800	\$32,900
Ashland	34,500	25,300	27,700	32,800	33,200	33,200	32,900	31,400	31,800	29,900
Barron	51,300	37,700	41,400	50,800	50,200	50,600	44,400	41,100	39,800	42,700
Bayfield	25,300	15,800	19,800	22,000	21,900	21,300	22,000	21,200	24,600	21,300
Brown	167,200	111,000	116,200	130,400	128,100	128,300	129,800	128,000	131,600	151,100
Buffalo	31,100	22,300	24,000	28,800	27,800	27,900	26,100	25,700	19,700	21,400
Burnett	32,800	28,000	30,900	37,300	36,000	37,100	36,500	41,300	23,300	29,500
Calumet	57,400	35,900	36,900	48,000	55,000	55,100	56,100	56,000	57,200	53,800
Chippewa	81,200	58,800	40,800	80,700	75,800	85,000	89,900	80,400	80,500	71,700
Clark	39,000	28,300	27,800	33,000	29,500	34,600	33,100	50,100	31,400	24,000
Columbia	87,800	58,600	66,200	77,800	79,500	82,300	80,500	72,700	74,500	70,400
Crawford	31,600	21,900	23,100	27,500	9,600	31,200	31,800	30,500	30,200	28,100
Dane	615,900	466,400	537,800	653,900	658,200	671,700	679,600	650,100	668,300	638,200
Dodge	81,000	56,400	65,900	73,900	81,400	83,600	79,700	74,200	72,000	67,600
Door	42,500	30,700	35,000	41,800	40,400	40,300	41,100	39,200	41,100	40,600
Douglas	78,700	51,200	72,300	64,300	59,900	63,900	63,600	62,200	60,800	57,300
Dunn	55,900	38,300	43,700	53,800	61,800	59,300	59,600	55,800	54,200	53,500
Eau Claire	100,700	72,400	69,800	103,200	100,900	93,400	99,800	92,800	90,000	86,100
Florence	16,900	12,200	14,700	17,300	17,000	16,200	17,200	15,800	15,400	13,000
Fond du Lac	65,700	61,100	67,800	83,400	81,800	66,500	63,200	60,200	50,100	51,500
Forest	18,600	14,900	15,200	17,800	17,700	12,700	11,600	14,500	15,500	14,400
Grant	36,300	27,000	31,600	39,600	37,900	17,700	32,800	30,900	31,200	29,100
Green	30,800	21,400	22,900	27,200	29,200	36,300	27,400	30,100	28,400	27,100
Green Lake	44,500	27,300	27,700	33,700	33,400	33,300	32,300	38,300	39,100	36,700
Iowa	33,400	23,700	25,500	31,200	31,100	32,000	33,700	30,800	31,100	30,000
Iron	41,000	29,800	33,500	41,500	36,800	43,400	42,000	38,200	37,100	35,300
Jackson	35,600	25,200	26,000	35,500	35,600	37,400	37,400	34,100	34,300	31,400
Jefferson	65,300	44,600	48,600	58,200	50,200	43,900	41,900	39,400	41,400	38,600
Juneau	34,200	22,900	26,200	32,200	32,000	32,700	33,700	31,200	31,800	29,900
Kenosha	276,800	207,800	245,900	281,000	249,900	253,400	250,300	242,400	238,100	229,200
Kewaunee	29,900	21,500	23,000	27,400	26,900	27,700	29,200	26,800	27,400	26,200
La Crosse	119,500	89,300	87,800	107,800	102,200	98,300	105,800	93,000	90,500	82,800
Lafayette	11,900	7,700	12,200	16,600	16,000	16,000	15,600	15,400	21,800	19,800
Langlade	13,700	9,500	11,000	13,400	12,800	15,000	14,200	13,700	14,200	11,700
Lincoln	37,000	24,600	28,600	34,900	35,200	36,200	35,900	33,300	34,000	32,200
Manitowoc	32,400	31,300	30,700	33,700	35,700	37,100	35,400	35,100	24,500	25,300
Marathon	113,500	65,400	62,300	81,900	100,300	107,000	100,700	97,100	84,700	87,000
Marinette	31,800	23,400	26,200	30,900	31,300	31,300	35,600	30,700	31,600	30,500
Marquette	34,500	25,100	26,800	33,100	33,400	36,000	36,800	36,100	37,300	35,800
Menominee*	---	---	---	---	---	---	---	---	---	---
Milwaukee	1,575,200	1,053,000	1,116,400	1,476,800	1,455,700	1,502,100	1,487,700	1,410,900	1,424,100	1,284,600
Monroe	60,100	26,500	30,500	43,400	23,100	35,000	40,900	38,000	38,300	22,800
Oconto	35,800	25,100	27,100	32,900	34,000	33,400	34,700	31,700	32,300	33,600
Oneida	18,700	13,900	14,600	16,400	14,900	15,300	15,100	14,000	14,800	13,900
Outagamie	132,200	95,300	95,800	118,200	120,500	121,300	115,200	112,800	118,800	113,300

ATTACHMENT (continued)

Reimbursement to Counties Administering Victim and Witness Services Programs

<u>County</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>
Ozaukee	\$65,100	\$46,900	\$50,200	\$59,400	\$59,700	\$61,500	\$62,700	\$59,300	\$ 62,200	\$ 59,900
Pepin	16,500	11,700	13,300	15,700	15,500	14,900	13,400	11,000	9,300	4,200
Pierce	35,000	23,500	31,000	41,300	36,000	49,700	43,100	42,600	34,800	32,000
Polk	49,600	47,900	55,100	69,100	65,900	65,300	71,900	70,400	70,600	69,900
Portage	54,700	38,500	42,800	55,800	42,200	50,400	56,300	54,900	56,500	47,100
Price	15,200	10,900	12,300	16,300	16,200	16,500	16,100	16,600	17,000	15,800
Racine	260,700	162,400	168,900	207,200	195,700	191,800	196,300	204,200	211,300	201,900
Richland	40,500	27,500	28,400	35,100	35,300	30,200	25,100	23,000	22,500	20,900
Rock	250,400	174,200	185,000	200,700	210,200	223,000	195,900	194,900	199,500	214,300
Rusk	17,300	11,900	17,100	23,000	21,300	23,300	22,700	19,600	21,100	18,900
St. Croix	142,500	110,700	123,400	150,400	144,500	147,400	140,100	128,600	145,600	128,200
Sauk	40,700	24,700	31,600	50,800	57,300	58,400	58,400	57,600	104,500	55,900
Sawyer	---	---	---	---	---	---	12,500	25,200	46,700	30,800
Shawano	67,500	35,200	53,300	64,200	64,800	69,000	61,800	55,600	46,400	71,800
Sheboygan	172,000	128,900	134,000	160,300	162,700	165,200	163,500	156,900	108,700	203,900
Taylor	24,900	20,500	24,500	29,000	26,800	29,400	28,500	23,800	22,400	21,100
Trempealeau	47,100	32,200	35,900	38,800	35,200	35,800	37,100	29,400	36,900	35,800
Vernon	34,500	23,700	25,600	31,400	28,400	32,200	30,300	26,200	29,400	29,300
Vilas	43,000	30,600	31,200	40,000	39,600	40,200	39,100	37,600	36,100	33,500
Walworth	105,200	67,800	62,500	74,100	66,000	70,900	68,700	66,800	71,500	70,500
Washburn	40,900	26,400	29,300	35,800	35,600	37,300	39,700	36,000	37,600	34,800
Washington	77,800	53,700	60,400	81,200	86,800	80,800	81,900	79,600	77,100	74,600
Waukesha	274,400	204,000	229,600	257,900	259,300	273,500	265,600	244,600	250,300	217,100
Waupaca	54,200	40,300	41,500	49,800	50,300	50,300	59,100	51,300	51,500	48,600
Waushara	21,600	15,200	16,700	20,000	20,500	20,700	28,600	36,200	37,000	36,600
Winnebago	98,000	69,900	74,600	91,200	91,600	87,100	92,600	86,700	96,900	101,700
Wood	<u>74,700</u>	<u>55,500</u>	<u>58,600</u>	<u>72,400</u>	<u>72,500</u>	<u>75,200</u>	<u>74,100</u>	<u>76,800</u>	<u>70,300</u>	<u>64,000</u>
Total	\$6,724,700	\$4,712,500	\$5,125,700	\$6,328,300	\$6,209,900	\$6,362,100	\$6,343,400	\$6,082,500	\$6,119,300	\$5,849,200

* Menominee County receives indirect support through payments to Shawano County.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #399

Violence Interruption Grants (Justice)

[LFB 2021-23 Budget Summary: Page 370, #8]

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111, provides \$1,000,000 PR in 2021-22 and \$1,000,000 GPR in 2022-23 to create a program that supports grants to community organizations that use evidence-based strategies to mediate conflicts, prevent retaliation and connect individuals to community support. The bill would create an annual GPR appropriation and a continuing PR appropriation for the program. In 2021-22, AB 68/SB 111 specifies that \$1,000,000 would be transferred from DOJ's continuing GPR-funded school safety grants appropriation to the new PR appropriation. In 2022-23, \$1,000,000 GPR would be provided in the new GPR appropriation.

2. A violence interruption grant program was first included in the Governor's August 2020 special session call with the same funding structure. It should be noted that in May, 2021 guidance from the US Department of Treasury, community violence intervention programs as an eligible use of funds under the American Rescue Plan Act of 2021 (ARPA) to "take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic."

3. Under 2017 Act 143, an Office of School Safety was created in the Department of Justice. In conjunction with the Department of Public Instruction (DPI), the Office is required to create model practices for school boards and private schools to use when developing or reviewing a school safety plan. The Department of Public Instruction is directed to provide any resources or staff requested by the Office to create the model practices. The Office is required to consult with the Wisconsin School Safety Coordinators Association and the Wisconsin Safe and Healthy Schools Training and Technical Assistance Center. When requested, the Office is required to assist a school board or the governing body of a private school in developing or reviewing the school safety plans. In addition, the Office must offer, or contract with a state agency to offer, training to school teachers,

school counselors, and coaches on school safety. Act 143 allows DOJ to collect fees from schools that receive a grant for the training and creates an appropriation to receive these fees. Training subjects are required to include trauma informed care.

4. The Office is required to award the grants for expenditures related to improving school safety. The Office must accept grant applications from public schools, private schools, independent charter schools, and tribal schools. The Office developed a plan for awarding the grants, in consultation with DPI, and must include a description of what types of expenditures are eligible to be funded by grant proceeds.

5. Statute specifies certain eligible expenditures, but does not otherwise limit DOJ authority to determine how grants are awarded or what expenditures are eligible. Eligible expenditures explicitly include expenditures for compliance with DOJ model practices for school safety; expenditures for DOJ school safety training; expenditures for safety-related upgrades to school buildings, equipment, and facilities; and expenditures necessary to comply with requirements to submit school blueprints to law enforcement and the Office of School Safety.

6. The Office is responsible for administering the grants for school safety and safety-related upgrades to school buildings, equipment, and facilities. Act 143 appropriated \$100 million in GPR funding for this purpose under a continuing appropriation. The Office initially awarded \$91 million for over 1,300 grants in two rounds of funding. As of May 5, 2021, approximately \$86,217,500 has been used to reimburse schools for eligible expenses and an additional \$4,797,100 in funds are pending final processing.

7. After the two rounds of grant funding, the Office opened three grant modification programs for further funding opportunities including a School Resource Officer project (\$97,000), Digital Threat Assessment (\$74,000), and Adolescent Mental Health Training hosting (\$1,290,100). If a school was awarded one of these grants their original grant amount was increased.

8. In addition, there are five other grant programs including: (a) Critical Incident Response grant program for schools experiencing critical events; (b) Speak up speak out materials grant which reimburse schools for expenses on promotional materials; (c) validating the digital threat assessment tools study; (d) anti-hate curriculum; and (e) critical incident response training.

9. The Department indicates that the OSS has plans for all of the \$100 million as shown in the table below. The Office indicates that it will reallocate any additional turnback funds identified to existing programs such as the Critical Incident Response Grant, Allyship Skill-Building (Anti-Hate Curriculum) and School Resource Office (SRO) trainings. Note that in the table DOJ is currently in the process of evaluating awards for the validation study. In addition, school safety grant funds are budgeted to serve as a match to a federal grant for the crisis mental health services.

<u>Title</u>	<u>Budgeted</u>	<u>Awarded Funds</u>	<u>Payments Made</u>	<u>Obligation (Pending/ Remaining)</u>	<u>Unawarded</u>
Round 1 & 2	\$91,015,600	\$91,014,591	\$86,217,460	\$4,797,131	\$1,009
Adolescent Mental Health Training host	1,290,139	1,290,139	1,222,591	67,548	0
Digital Threat Assessment	74,000	74,000	74,000	0	0
Critical Incident Response (CIR)	2,000,000	239,329	239,329	0	1,760,671
Speak Up Speak Out (SUSO) Marketing and Promotional materials	1,456,000	1,456,000	131,112	1,324,888	0
Validation Study*	3,325,000	0	0	3,325,000	0
School Resource Officer (SRO) Project	100,000	97,020	30,690	66,330	2,980
Anti Hate Curriculum - Federal Match**	500,000	0	0	500,000	0
CIRT Education - Federal Match**	237,649	0	0	237,649	0
Refund of Prior Year- GPR Earned in SFY20	<u>1,612</u>	<u>0</u>	<u>1,612</u>	<u>0</u>	<u>0</u>
Totals	\$100,000,000	\$94,171,079	\$87,916,794	\$10,318,546	\$1,764,660

* Award evaluation in process.

** Use as federal grant match.

10. The Department indicates that there likely will be \$1,000,000 in funds that are not be obligated or utilized that could be directed to violence interruption grants. Therefore, if the Committee wishes \$1,000,000 PR in 2021-22 and \$1,000,000 GPR in 2022-23 could be provided to create a program that supports grants to community organizations that use evidence-based strategies to mediate conflicts, prevent retaliation and connect individuals to community support and create a new GPR appropriation for the program. [Alternative 1]

11. Alternatively, the Committee could create only the PR appropriation utilizing \$1 million transferred from the existing school safety grants appropriations. Under this alternative, expenditure authority of \$500,000 PR annually could be provided to support violence interruption grants. This alternative would allow the grant program to be create using existing funding. [Alternative 2]

12. The school safety grant program has no sunset date. Given that all funds from the original \$100 million are committed or have planned purposes, the Committee may decide to delete the appropriation as of June 30, 2023 and lapse any remaining funding. [Alternative 3] This alternative would result in the deletion of the continuing appropriation for School Safety grants.

13. Violence interruption grants are an eligible expense under APRA and, therefore, monies may be available for this purpose. While federal funding provided in such a manner would be one-time in nature, if federal funding is initially provided continued funding of a violence interruption program could be addressed in subsequent biennial budgets. Given this, the Committee could take no action. [Alternative 4]

ALTERNATIVES

1. Provide \$1,000,000 PR in 2021-22 and \$1,000,000 GPR in 2022-23 to create a program

that supports grants to community organizations that use evidence-based strategies to mediate conflicts, prevent retaliation and connect individuals to community support. Create an annual GPR appropriation and a continuing PR appropriation for the program.

ALT 1	Change to Base
GPR	\$1,000,000
PR	<u>1,000,000</u>
Total	\$2,000,000

2. Provide \$500,000 PR annually to create a program that supports grants to community organization that use evidence-based strategies to mediate conflict, prevent retaliation, and connect individuals to community support. Create a continuing PR appropriation for the program.

ALT 2	Change to Base
PR	\$1,000,000

3. Sunset the School Safety Grant program on June 30, 2023. Require DOJ to lapse any remaining funds in the school safety grant program at the end of the 2021-23 biennium.

4. Take no action.

Prepared by: Sarah Wynn



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #400

Crime Laboratory Toxicology Testing (Justice)

[LFB 2021-23 Budget Summary: Page 372, #12]

CURRENT LAW

The Department of Justice's (DOJ) Division of Forensic Services, formerly known as the Crime Laboratory Bureau, operates the state's three regional crime laboratories, located in Madison, Milwaukee, and Wausau. Under s. 165.75(3) (a) of the statutes, the purpose of the state crime laboratories is to "provide technical assistance to local law enforcement officers in the various fields of scientific investigation in the aid of law enforcement. ...[T]he laboratories shall maintain services and employ the necessary specialists, technical and scientific employees for the recognition and proper preservation, marking and scientific analysis of evidence material in the investigation and prosecution of crimes in such fields as firearms identification, the comparison and identification of toolmarks, chemistry, identification of questioned documents, metallurgy, comparative microscopy, instrumental detection of deception, the identification of fingerprints, toxicology, serology and forensic photography."

DISCUSSION POINTS

1. The state crime laboratories are responsible for providing scientific and technical assistance to state and local law enforcement agencies, upon their request. The budget in 2020-21 for the state crime laboratories (less amounts budgeted for deoxyribonucleic acid (DNA) analysis) totals \$14,341,900 (all funds) and 91.4 positions. The state crime laboratories' funding is comprised of \$6,482,900 GPR and \$7,859,000 PR, as well as 53.4 GPR and 38.0 PR positions.

2. The three state crime laboratories are currently authorized the following types of specialists (excluding specialists for DNA analysis): (a) fingerprint and footwear examiners; (b) controlled substance analysts; (c) forensic program technicians; (d) toxicologists; (e) forensic imaging specialists; (f) firearms and toolmark examiners; (g) trace evidence examiners; (h) forensic science

training coordinators; and (i) identification technicians. In addition to these specialist positions, additional supervisory and support positions include forensic scientist supervisors, office associates, forensic science program chiefs, justice supervisors, a crime laboratory director, information services personnel, and an executive staff assistant.

3. The state crime laboratories are also authorized positions for DNA analysis activities. These positions include: (a) DNA analysts; (b) forensic scientist supervisors; and (c) forensic program technicians. Table 1 identifies the caseload of the state crime laboratory analysts during calendar year 2020. Many cases referred to the state crime laboratories require more than one type of analysis. As a result, the total number of case types opened and completed by the crime laboratories, as identified in Table 1, is larger than the total number of distinct law enforcement cases referred to the crime laboratories.

TABLE 1

Analyst Caseloads in Calendar Year 2020

<u>Case Type</u>	<u>Opened</u>	<u>Completed</u>
DNA databank	15,223	13,788
Controlled substances	3,813	3,675
DNA analysis	3,820	3,144
Toxicology	3,972	3,829
Firearms	451	403
Photo work order	502	490
Trace evidence	145	133
Crime scene response	104	49
Forensic imaging	86	77
Footwear or tire track	21	18
Toolmarks	23	20
Familial search	<u>1</u>	<u>1</u>
Total	28,161	25,627

4. The crime laboratories provide forensic toxicology services for law enforcement agencies. Forensic toxicology is generally an analysis of bodily specimens to determine the presence of chemicals that are harmful or for which ingestion is in some way defined as a criminal offense. The laboratories identify and quantify the amount of drugs, alcohol, and poisons in biological specimens such as blood, urine, or tissue. The information is used by law enforcement to help determine if laws have been violated and if criminal charges are warranted. Forensic toxicologists also assist in postmortem investigations to establish cause or circumstances of death. Depending on the case, toxicology testing can range from a single blood alcohol test to a determination of the concentration of multiple drugs and their metabolites in a single biological sample. Testing for the presence and quantity of alcohol is the most common toxicological test performed by the crime labs.

5. Full toxicology services are provided by the Madison and Milwaukee Crime Laboratories. The Wausau Crime Laboratory provides toxicology services only as it relates to blood alcohol content. For other toxicological services, the Wausau region is served by the Madison crime laboratory. The Crime Lab currently has 8.0 toxicology positions. In 2020, the crime labs opened 3,972 toxicology cases, and completed 3,829 cases.

6. The toxicology unit experienced high turnover in late 2020, and currently has three toxicologists in training and one vacancy, which is in the process of being filled. The Division indicates that toxicologists take over one year to become fully trained and maintain a full caseload, but are able to have a positive impact on caseloads prior to the completion of the training period.

7. Assembly Bill 68/Senate Bill 111, would provide \$645,200 PR in 2021-22 and \$278,600 PR in 2022-23 and 4.0 PR positions annually supported by revenues from the DNA and Crime Lab and Drug Law Enforcement surcharges, to address the demand for forensic toxicology testing performed by the state crime laboratories, and to add instrumentation necessary to identify synthetic drugs and drug analogs that are toxic at very low levels. Of the total, \$455,000 PR in 2021-22 is provided as one-time funding. The forensic toxicology program identifies and quantifies drugs and alcohols in biological samples submitted by law enforcement agencies related to felony investigations.

8. The Division indicates that "On a short-term basis to avoid greater delays, the technical lead has been assigned to casework and several employees from a different unit (Controlled Substances) have been pulled from their duties to assist as much as possible in toxicology casework. Additionally, technical improvement activities have been delayed. Cumulatively, this is not sustainable long-term and will place the success of the unit at risk. Four additional full-time positions are required to process the current level of case submissions and perform mandatory technical improvement and non-casework activities per the recommendations of the Needs Assessment report. The work hours spent on activities other than benchwork, analysis and technical review include instrument maintenance and performance checks, assessment and validation, quality control of reagents and consumables, court preparation and testimony, evaluation of emerging methodology and technology, engagement with the forensic science community and stakeholders in the state, research and support of other laboratories." Given the high recent turnover in crime laboratory staff, the long lead time in training staff to the level of technical proficiency required for the positions, and the increasing workload of the laboratories, the Committee could provide \$190,200 PR in 2021-22 and \$278,600 PR in 2022-23 and 4.0 PR positions annually to address the demand for forensic toxicology testing performed by the state crime laboratories. [Alternative 1]

9. The Division indicates that the emergence of additional synthetic drugs and drug analogs requires additional instrumentation. Fentanyl analogs, novel opioids/benzodiazepines, and synthetic cannabinoids are the main drug classes that may be detected by Liquid chromatography-Tandem Mass Spectrometry (LC/MS/MS) instrumentation and missed by standard gas chromatography and mass spectrometry testing. The Division indicates that fentanyl and related analog cases increased from 36 cases in 2015 and to 411 cases in 2019. In order to address the need for more sensitive analytic equipment, AB 68/ SB 111 would provide one-time funding of \$455,000 PR in 2021-22 for LC/MS/MS instrumentation.

10. The administration intends for program revenue funding to be supported from a transfer of monies from DOJ's CLDLE and DNA surcharge fund. Under the bill, the fund is projected to have an opening balance of \$3,585,400 and to conclude the 2021-23 biennium with a balance of \$3,486,700. It should also be noted that the fund is estimated to operate in an imbalance during the 2021-23 biennium. In 2021-22, total obligations (\$17,398,600) are estimated to exceed annual revenue (\$17,300,000) by \$98,600. In 2022-23, total obligations would equal annual revenue.

11. In order to provide some additional support to toxicology functions associated with the crimes labs especially in light of the turnover of half the unit, the Committee may choose to provide a lower level of positions. Such an alternative could provide \$100,100 PR in 2021-22 and \$151,700 PR in 2022-23 and 2.0 PR positions annually supported by revenues from the DNA and Crime Lab and Drug Law Enforcement surcharges. [Alternative 2] Under this alternative, if additional positions beyond that provided are necessary and sufficient revenue is available, DOJ could seek supplemental funding and positions with a 14-day passive review request to the Committee.

12. In order to provide resources to purchase instrumentation associated with identifying synthetic drugs in samples provided by law enforcement, the Committee may choose to provide one time funding for updated laboratory instruments. This alternative would provide \$455,000 in 2021-22 for Liquid chromatography-Tandem Mass Spectrometry instrumentation and allow the laboratories to process samples at a more sensitive level of detection. [Alternative 3]

ALTERNATIVES

1. Provide \$190,200 PR in 2021-22 and \$278,600 PR in 2022-23 and 4.0 PR positions annually supported by revenues from the DNA and Crime Lab and Drug Law Enforcement surcharges, to address the demand for forensic toxicology testing performed by the state crime laboratories.

ALT 1	Change to Base	
	Funding	Positions
PR	\$468,800	4.00

2. Provide \$100,100 PR in 2021-22 and \$151,700 PR in 2022-23 and 2.0 PR positions annually supported by revenues from the DNA and Crime Lab and Drug Law Enforcement surcharges.

ALT 2	Change to Base	
	Funding	Positions
PR	\$251,800	2.00

3. Provide \$455,000 PR in 2021-22 for Liquid chromatography-Tandem Mass Spectrometry (LC/MS/MS) instrumentation supported by revenues from the DNA and Crime Lab

and Drug Law Enforcement surcharges.

ALT 3	Change to Base
PR	\$455,000

4. Take no action.

Prepared by: Sarah Wynn



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #401

First Responder and Criminal Justice Training (Justice)

[LFB 2021-23 Budget Summary: Page 372, #13]

CURRENT LAW

The Division of Law Enforcement Services' Training and Standards Bureau has two sections; the Training, Certification and Curriculum Section and the Justice Programs Section. Generally, the Training, Certification and Curriculum Section has the following responsibilities: (a) staffing the Law Enforcement Standards Board; and (b) administering the training and certification requirements for law enforcement, tribal law enforcement, jail, and secure juvenile detention officers. The Training, Certification and Curriculum Section's budget in 2021-22 after standard budget adjustments without amounts for local assistance is \$2,144,200 and 11.0 positions, comprised of \$170,800 GPR, \$1,919,300 PR, and \$54,100 FED, and 1.0 GPR, 9.4 PR, and 0.6 FED positions.

DISCUSSION POINTS

1. The Law Enforcement Standards Board (Board) is established under ss. 15.255(1) and 165.85 of the statutes and is attached to DOJ. The Board consists of the following 15 members: (a) seven local law enforcement officers, including one sheriff and one chief of police; (b) two local government officials who occupy executive or legislative posts; (c) one district attorney; (d) one public member not employed in law enforcement; (e) the designee of the Secretary of the Department of Transportation; (f) the designee of the special agent in charge of the Milwaukee office of the FBI; (g) the designee of the Attorney General; and (h) the designee of the Secretary of the Department of Natural Resources. The representative of the FBI acts in an advisory capacity only and has no vote.

2. The Board has the following duties: (a) ensure that law enforcement, tribal law enforcement, jail, and secure juvenile detention recruits meet the minimum qualifications for recruitment; (b) oversee and fund the training of such recruits; (c) certify such recruits as officers upon

the successful completion of their training; (d) oversee and fund the annual recertification training of certified law enforcement, tribal law enforcement, jail, and secure juvenile detention officers; (e) certify schools and instructors that provide preparatory training to recruits and recertification training to certified officers; and (f) maintain an updated statewide record of all certified officers.

3. Under s. 165.86 of the statutes, the Department is to supply the staffing needs of the Board, and is to coordinate all preparatory, recertification, advanced, and special training activities in law enforcement in the state.

4. Assembly Bill 68/Senate Bill 111, would provide \$114,200 GPR in 2021-22 and \$149,000 GPR in 2022-23 and 2.0 GPR positions to assist with first responder training. One of the recommended positions would research, develop, and deliver training programs focused on issues including implicit bias, procedural justice, and racial intelligence education. The second position would focus on supporting the mental health and resiliency of first responders by developing wellness programs, increasing access to peer support programs, and working closely with an advisory group to assist in the development of regional peer support training, manuals, and technical assistance.

5. The Department indicates that "The positions will research the training options that already exist, as well as work with advisory groups to generate new ideas and concepts for training law enforcement officers in the areas of implicit bias, procedural justice, racial intelligence, resiliency, and officer wellness." In addition, "The positions will be responsible for developing the curriculum (competencies, learning objectives, performance assessment tasks) and associated training materials (textbooks, PowerPoint presentations, videos, training scenarios, etc.) for the topic areas. In addition, the positions will be responsible for developing instructors to train in the topic areas by setting instructional standards, developing instructor training course curriculum and training materials. The positions will provide instruction to develop instructors, as well as serve as general instructors in the topic areas. An important component of these positions will also be to work with the Bureau of Justice Information and Analysis to assess the effectiveness of the trainings and make improvements where needed."

6. In order to provide additional support to law enforcement agencies through the Training, Certification and Curriculum Section, the Committee could provide two additional positions. [Alternative 1] This alternative would result in \$114,200 GPR in 2021-22 and \$149,000 GPR in 2022-23 and 2.0 GPR positions to assist with first responder training.

7. Alternatively, funding and position authority could be separately for either of the two identified purposes. Selecting either of the positions would result in increased costs of \$57,100 GPR in 2021-22 and \$74,500 GPR in 2022-23 and 1.0 GPR position. In order to provide a position to research, develop, and deliver training programs focused on issues including implicit bias, procedural justice, and racial intelligence education, the Committee could adopt Alternative 2. In order to increase resources devoted to developing first responder wellness programs, the Committee could adopt Alternative 3.

8. If no positions are provided, the Training, Certification and Curriculum Section may choose to allocate existing resources to the tasks, but such duties would be in addition of other work duties. [Alternative 4]

ALTERNATIVES

1. Provide \$114,200 GPR in 2021-22 and \$149,000 GPR in 2022-23 and 2.0 GPR positions to assist with first responder training.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$263,200	2.00

2. Provide \$57,100 GPR in 2021-22 and \$74,500 GPR in 2022-23 and 1.0 GPR position to research, develop, and deliver training programs focused on issues including implicit bias, procedural justice, and racial intelligence education.

ALT 2	Change to Base	
	Funding	Positions
GPR	\$131,600	1.00

3. Provide \$57,100 GPR in 2021-22 and \$74,500 GPR in 2022-23 and 1.0 GPR position to assist with developing first responder wellness programs.

ALT 3	Change to Base	
	Funding	Positions
GPR	\$131,600	1.00

4. Take no action.

Prepared by: Sarah Wynn



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #402

Alternate Emergency Response Expansion and 9-1-1 Diversion (Justice)

[LFB 2021-23 Budget Summary: Page 372, #14]

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111 would provide \$280,000 GPR annually in a newly-created annual appropriation for a grant to counties with a population of 750,000 or more (Milwaukee) to support: (a) expanding the capacity of behavioral crisis lines that provide an alternative to 9-1-1 for nonemergency behavioral health issues; and (b) the research, design and personnel costs of creating programs to divert behavioral health situations from 9-1-1 centers. The county would be required to submit an application to the Department of Justice (DOJ) that includes a proposed plan for expenditure of the grant moneys. Under the bill, DOJ would be required to review an application and plan to determine whether these materials meet the DOJ established criteria. Further, DOJ would be required to review the use of grant money in order to ensure that the grant is used in accordance with the approved plan. The bill specifies that the criteria and procedures developed by DOJ need not be promulgated as administrative rules. Currently, only Milwaukee County would qualify for this grant program.

2. The Milwaukee County executive indicated "Last year, the County Board allocated \$1.6 million in CARES funding to mental health services, including services for uninsured populations impacted by COVID-19. In addition, the Crisis Assessment and Response Team (CART), a program which pairs mental health clinicians with law enforcement officers in response to emergency calls where mental health symptoms may be present, received a \$500,000 expansion to provide coverage to all of Milwaukee County 24 hours a day, seven days a week."

3. Grant funding proposed in AB 68/SB 111 is intended to support efforts to develop alternative means to address behavioral health needs without involvement of 9-1-1 call centers. The bill specifies that grant funding may be used for contracts between local health departments and nonprofit organizations to increase the capacity of behavioral crisis support services for

nonemergency behavioral health issues. In order to support Milwaukee County's mental health care efforts beyond the steps the County is already taking, the Committee may choose to fund the grant program. [Alternative 1]

4. While federal funding could be one-time in nature, if federal funding is initially provided continued funding of a mental health initiatives could be addressed in subsequent biennial budgets. Given that Milwaukee County may be able to utilize federal funding for their mental health incentives around crisis response, the Committee may decide to take no action. [Alternative 2]

ALTERNATIVES

1. Provide \$280,000 GPR annually in a newly created annual appropriation for a nonemergency behavioral health issue 9-1-1 alternative grant to counties with a population of 750,000 or more.

ALT 1	Change to Base
GPR	\$560,000

2. Take no action.

Prepared by: Sarah Wynn



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Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #403

Youth Diversion Program (Justice)

[LFB 2021-23 Budget Summary: Page 373, #15]

CURRENT LAW

Under s. 165.987 of the statutes, the Department of Justice (DOJ) is required to enter into contracts with organizations for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs. The statutes specifically direct the Department to enter into the following contracts for the following amounts: (a) \$500,000 to an organization which provides services in a county having a population of 500,000 or more (which DOJ has awarded to Milwaukee County); (b) \$150,000 to an organization in Racine County; (c) \$150,000 to an organization in Kenosha County; (d) \$150,000 to an organization in Brown County; and (e) \$100,000 to an unspecified organization (which DOJ has awarded to the City of Racine).

DISCUSSION POINTS

1. Funding for the youth diversion program during the 2019-21 biennium is supported by \$672,400 PR annually. The program revenue funding is provided from the penalty surcharge. Under current law, whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also imposes a penalty surcharge of 26% of the total fine or forfeiture.

2. In addition to the budget for youth diversion contracts, the statutes specify that DOJ may not distribute more than \$300,000 PR annually to the organization it has contracted with which provides services to a county with a population of 500,000 or more for alcohol and other drug abuse education and treatment services for participants in that organization's youth diversion program. These funds are provided by the Department of Health Services from federal Substance Abuse and Mental Health Services Administration (SAMHSA) funds that it administers. In recent years, DHS has transferred \$281,600 of these federal funds to DOJ for the youth diversion program.

3. The table below identifies the youth diversion grants awarded in 2019-20, including: the county in which the grantee operates; the amount of the award; and a description of the youth diversion project for 2019-20.

Youth Diversion Grants Awarded in 2019-20

<u>County</u>	<u>Award</u>	<u>Project Description</u>
Brown	\$96,200	The Brown County Ties project is a gang diversion initiative targeting Brown County youth that involves collaboration between local youth service agencies and law enforcement. The Boys & Girls Club of Green Bay’s professional youth development staff target at-risk youth and link them to structured programs that provide positive social and activity outlets. Project activities include educational, recreational, and employment readiness programs. Programming emphasizes good character, leadership, and health and life skills while developing resiliency to gang influences, alcohol, drugs, and other risk behaviors. The Boys & Girls Club subcontracts with Family Services of Northeast Wisconsin to support outreach programming for youth who are susceptible to recruitment by Asian gangs. The Boys & Girls Club also subcontracts with the Green Bay Police Department to establish a positive relationship between youth and law enforcement officers during community based activities such as prevention education presentations, teen events, and resiliency training programs.
Kenosha	\$96,200	The Kenosha County Department of Human Services and two community-based provider agencies use grant funds to provide gang diversion/prevention services to at-risk or gang-involved youth. Prevention/intervention services are designed to reduce gang-risk/involvement and delinquent behavior, and increase participation in pro-social activities.
Milwaukee	\$320,400	The Social Development Commission (SDC) Youth Service’s Gang Diversion program implements best practices and evidence-based models to benefit of under-resourced youth who are involved or at-risk of becoming involved in the juvenile justice system. Gang diversion activities are designed to address the risk factors underlying gang recruitment and gang involvement. The program provides youth with anti-gang and violence diversion strategies. SDC implements individual and family centered approaches to decrease in the number of youth who partake in delinquent behavior or who have used aggression to handle a conflict.
Milwaukee	\$281,600	SDC’s Counseling and Wellness Clinic will provide outpatient treatment services for Alcohol, Tobacco, and Other Drug Abuse (ATODA). The program’s central goals are to educate and treat youth and parents/guardians about ATODA issues and provide them with effective coping skills. SDC staff assists under-resourced youth who struggle with ATODA issues. Staff conduct assessments, develop a treatment plan, and provide case management. Participating youth gain an awareness of the community issues that impact the safety of Milwaukee County residents.
Racine	\$63,400	The City of Racine partners with Safe Haven of Racine, RUSD, Why Gangs LLC, Racine Vocational Ministries and the YMCA to provide specific intervention services to mitigate the adverse impact of gang membership (and gang affiliation) in the City of Racine. Under the administrative oversight of the Executive Director of Safe Haven of Racine, Why Gangs LLC will provide specific gang diversion services as delineated in the evidence-based outcomes documentation. Why Gangs facilitators will work with RUSD school administrators, Racine County HSD youth counselors, YMCA youth program directors to develop a network of services to strategically engage the target population. Racine Vocational Ministries will be contracted to assist with employment opportunities for at-risk youth who are released back into the community from corrections.

<u>County</u>	<u>Award</u>	<u>Project Description</u>
Racine	\$96,200	The Young Leaders Academy (YLA) is a year-round program consisting of three components dedicated to reversing the negative trend of low academic achievement and stereotypical behavior of youth ages 7-18 from low-income communities in Racine, WI. The YLA's mission is to nurture the development of leadership abilities and life skills of inner-city youth, empowering them to improve the quality of their life and assist them in becoming productive citizens. The YLA uses the Search Institutes 40 Developmental Assets as the foundation of its education and leadership philosophy. The Assets are a set of skills, experiences, relationships and behaviors that enable young people to develop into successful and contributing adults.
Total	<u>\$954,000</u>	

4. Assembly Bill 68/Senate Bill 111, would provide \$672,400 GPR and -\$672,400 PR annually for the youth diversion program to replace penalty surcharge funding with GPR. The bill would create an annual GPR appropriation to for program funding. Overall funding for the program would not change. Rather, the purpose in the funding shift is generally to reduce the overall reliance of penalty surcharge funding.

5. Under current law, when a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, a penalty surcharge is imposed totaling 26% of the fine or forfeiture. Revenue from the penalty surcharge is deposited in the Department of Justice's (DOJ) penalty surcharge; receipts appropriation (henceforth called the penalty surcharge fund). Penalty surcharge revenue received by the fund is transferred to state agencies to support various programs related to the criminal justice system. In 2020-21, the fund was statutorily required to support the amounts identified in the table below.

Penalty Surcharge Fund Obligations, 2020-21

<u>Obligation</u>		<u>Amount Appropriated in 2020-21</u>
Justice	Law enforcement training fund; local assistance	\$4,364,800
	Law enforcement training fund; state operations	3,267,900
	Drug enforcement intelligence operations	2,199,100
	Reimbursement for county victim-witness services	748,900
	Drug crimes enforcement; local grants	717,900
	Transaction information management of enforcement (TIME) system	730,300
	Youth diversion grant program	672,400
	Law enforcement programs and youth diversion - administration	140,400
Public Instruction	Aid for alcohol and other drug abuse programs	1,284,700
	Alcohol and other drug abuse programs	618,900
Corrections	Correctional officer training	2,612,500
	Victim services and programs	318,600
Circuit Courts	Court interpreters	232,700
Public Defender	Conferences and training	<u>194,400</u>
Total		\$18,103,500

6. In recent years the penalty surcharge fund has operated in deficit. In 2019-20, the penalty surcharge fund concluded the fiscal year with a cumulative deficit of \$17,565,100. The Department of Justice estimates that the penalty surcharge fund will close the 2020-21 state fiscal year with a cumulative deficit of \$20,668,600. Even with the other modifications to the penalty surcharge proposed by the budget bill, the administration estimates that the appropriation will end the 2021-23 biennium with a deficit of \$25,582,400. The table below identifies the condition of the fund from 2016-17 through 2020-21.

Penalty Surcharge Fund Condition, 2011-12 thru 2020-21

	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21 est.</u>
Opening Balance	-\$3,701,100	-\$5,601,300	-\$7,971,900	-\$10,631,400	-\$12,607,100	-\$17,565,100
Revenues	15,135,100	14,572,600	14,448,100	15,583,300	13,568,900	15,000,000
Obligations	17,035,300	16,943,200	17,107,600	17,559,000	18,526,900	18,103,500
Ending Balance	-5,601,300	-7,971,900	-10,631,400	-12,607,100	-17,565,100	-20,668,600

7. In order to continue to support youth diversion programming and begin to address the deficit in the penalty surcharge appropriation, the Committee could provide GPR for the youth diversion program. [Alternative 1] This alternative would result in \$672,400 GPR and -\$672,400 PR annually for the youth diversion program to replace penalty surcharge funding with GPR and create an annual GPR appropriation to provide funding for the program.

8. While lessening the potential overdraft of the penalty assessment, shifting the youth diversion program to GPR will not eliminate the appropriation overdraft. As such, any amount of GPR provided for the program will begin to reduce the use of penalty assessment revenues. To this end, a lesser amount of GPR could be provided. For example, to help address the deficit by decreasing demand on the appropriation, the Committee could provide half the amount of GPR, and maintain half the PR funding for the youth diversion program. [Alternative 2] This alternative would reduce the program's reliance on the penalty surcharge and result in \$336,200 GPR and -\$336,200 PR annually for the youth diversion program.

9. On the other hand, the Committee may not wish to create another GPR appropriation and program. As a result, the Committee may choose to take no action. [Alternative 3] Under this alternative, the youth diversion grant program would remain funded from the penalty surcharge.

ALTERNATIVES

1. Provide \$672,400 GPR and -\$672,400 PR annually for the youth diversion program to replace penalty surcharge funding with GPR. Create an annual GPR appropriation to provide funding for the program.

ALT 1	Change to Base
GPR	\$1,344,800
PR	<u>- 1,344,800</u>
Total	\$0

2. Provide \$336,200 GPR and -\$336,200 PR annually for the youth diversion program to replace half of penalty surcharge funding with GPR. Create an annual GPR appropriation to provide supplemental funding for the program.

ALT 2	Change to Base
GPR	\$672,400
PR	<u>- 672,400</u>
Total	\$0

3. Take no action.

Prepared by: Sarah Wynn

Justice

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
2	Technical Transfers Within the Same Appropriation
3 (except f.)	Program Revenue Reestimates
5d.	Continue Funding Criminal Justice Diversion Programs and Investigations
9	Sexual Assault Victim Services Grant Program
10	Criminal Investigation Gifts, Grants, and Proceeds Appropriation
24	Administrative Services Gifts and Grants Reestimate

