

# HOUSE BILL 271

E4, J1

11r0714

(PRE-FILED)

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By: **Delegate Ebersole**

Requested: September 24, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 27, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,  
 2 Article – Public Safety  
 3 Section 4–1001  
 4 Annotated Code of Maryland  
 5 (2018 Replacement Volume and 2020 Supplement)

6 Preamble

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

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

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

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

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

26 **Article – Public Safety**

27 4–1001.

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

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

34 **(4) A LAW ENFORCEMENT OFFICER:**

1 ~~1.~~ (I) AFTER THE ADMINISTRATION OF MEDICATION TO  
2 REVERSE AN OVERDOSE; ~~OR~~

3 ~~2.~~ (II) AFTER THE INDIVIDUAL IS DETAINED OR ARRESTED  
4 BY THE OFFICER; OR

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

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

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

12 (II) USES EVIDENCE-BASED PRACTICES;

13 (III) USES HARM REDUCTION APPROACHES; AND

14 (IV) DOES NOT WITHHOLD SERVICES BASED ON  
15 NONCOMPLIANCE.

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

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

21 (I) THE INVOLVEMENT OF THE LOCAL BEHAVIORAL HEALTH  
22 AUTHORITY WITHIN THE JURISDICTION; AND

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

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

30 (I) PROGRAM PARTICIPANT ELIGIBILITY CRITERIA AND  
31 DOCUMENTATION;

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

3 (III) REPORTING; AND

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

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

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

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

20 (2) PERFORMANCE MEASUREMENTS, INCLUDING RATE OF  
21 BEHAVIORAL HEALTH SERVICES ENGAGEMENT 30 DAYS AFTER THE POINT OF  
22 INITIAL CONTACT.

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

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

33 ~~(F) (1) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND~~  
34 ~~VICTIM SERVICES MAY ADOPT GUIDELINES AND REQUIREMENTS FOR THE~~

~~DISTRIBUTION OF FUNDS FOR EXPENSES RELATED TO LAW ENFORCEMENT  
DIVERSION PROGRAMS.~~

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

~~(C) ACTIVITIES ELIGIBLE FOR FUNDING UNDER THIS SECTION INCLUDE:~~

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

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

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

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

~~(5) PROGRAM EVALUATION ACTIVITIES.~~

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

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

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

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

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

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

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

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

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