

HOUSE BILL 2841

By Camper

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 3; Title 9; Title 33 and Title 41, relative to
mental and behavioral health.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 33, is amended by adding the following
as a new chapter:

33-12-101.

As used in this chapter:

(1) "Behavioral health disorder" means a mental illness, serious emotional disturbance, or substance use disorder, regardless of whether the mental illness, serious emotional disturbance, or substance use disorder has been formally diagnosed; a developmental disability; or an intellectual disability;

(2) "Behavioral health jail diversion program" means a program under which an individual with a behavioral health disorder who otherwise would have been arrested or processed through the traditional criminal justice system is instead rerouted away from the criminal justice system, pre-arrest or post-arrest and before jail incarceration or conviction;

(3) "Behavioral health practitioner" means a qualified mental health professional or a professional trained in substance use disorder treatment and rehabilitation services;

(4) "Community agency" means a public or private agency or organization that provides services toward preventing, improving, or resolving health, mental health, social, or environmental problems that affect individuals,

families, specific groups, or communities, including a community mental health center;

(5) "Community crisis responder clinician" means a behavioral health practitioner specifically trained in community crisis response;

(6) "Community crisis responder peer" means an individual with experience related to mental illness or substance use disorder who is specifically trained in community crisis response;

(7) "Community crisis response" means a program in which appropriate calls to a 911 service, as defined in § 7-86-103, and other existing crisis lines, are responded to by one (1) or more community crisis responder clinicians or community crisis responder peers, alone or, when public safety needs require, with law enforcement, for the purposes of stabilization, de-escalation, harm reduction, screening and assessment, and connection to mental health, substance use disorder, social, health, or other services and supports as needed;

(8) "Council" means the mental health diversion council established under the department or another division or office as determined appropriate by the department;

(9) "Department" means the department of mental health and substance abuse services;

(10) "Local unit of government" means a county or municipality, or a department or agency of a county or municipality, for the purpose of grant application and implementation; and

(11) "Telehealth" has the same meaning as defined in § 63-1-155.

33-12-102.

(a) There is created a separate account in the general fund to be known as the jail diversion fund.

(b) The jail diversion fund is composed of:

(1) Funds appropriated by the general assembly for the jail diversion fund; and

(2) Gifts, grants, and other donations received by the department for the jail diversion fund.

(c) Money in the jail diversion fund must be used by the department for the following purposes:

(1) Making grant distributions as provided in §§ 33-12-103 and 33-12-104;

(2) Contracting with an independent organization to evaluate grant recipients; and

(3) Program administration and evaluation expenses.

(d) Moneys in the jail diversion fund must be invested by the state treasurer pursuant to title 9, chapter 4, part 6, for the sole benefit of the jail diversion fund, and interest accruing on investments and deposits of the fund must be returned to the fund and remain part of the jail diversion fund.

(e) Moneys in the jail diversion fund shall not revert to the general fund at the end of the fiscal year and must remain in the jail diversion fund until expended.

(f) It is the legislative intent that new commitments made by the department for grants from the jail diversion fund shall not exceed the appropriations made and gifts, grants, and donations received for the purposes of the jail diversion fund. It is further the legislative intent that in each fiscal year the jail diversion fund be managed so that actual

expenditures and obligations to be recognized at the end of the fiscal year do not exceed available reserves and appropriations of the jail diversion fund.

33-12-103.

(a)

(1) Subject to appropriation to the jail diversion fund under § 33-12-102, the department shall create a behavioral health jail diversion grant program, using half of appropriated funds, gifts, grants, and other donations, to provide competitive grants to assist local units of government that apply according to the criteria outlined in this section.

(2) Within available resources, the department shall form a mental health diversion council within the department or task an appropriate division or office within the department with the responsibilities identified in this chapter to such division or office.

(b) The department shall distribute grants to local units of government to establish or expand behavioral health jail diversion programs in coordination between community agencies and law enforcement agencies.

(c) The department shall give priority to local units of government in counties without an urbanized area of at least fifty thousand (50,000) residents, according to the 2020 federal census or any subsequent census, and to programs that adhere to best practices as identified by the council.

(d) Grant applications may be made by an applicable local unit of government, and grants must be distributed to local units of government using a prospective payment methodology.

(e) Each local unit of government receiving a grant under this section shall provide to the department a copy of a memorandum of understanding between the

involved community agencies and law enforcement agencies that delineates how the agencies will be coordinated.

(f) The department shall create an application process with selection criteria for grants under subsection (c) and a grant dispersal process under subsection (d). The department shall post the application process, selection criteria, and grant dispersal process on the department's website.

(g) The department shall seek federal authority as outlined under § 9813 of the American Rescue Plan Act of 2021, Public Law 117-2, to utilize enhanced federal medicaid matching funds for the operation of eligible programs receiving grants under this section as long as that funding is available.

(h) Each year, a local unit of government that receives a grant under this section shall cooperate with an organization, selected by the department, to describe and evaluate the activities and results of the local unit of government related to grant dollars disbursed under this section. The department may utilize a portion of funding appropriated to the jail diversion fund to contract with an independent organization to fulfill this requirement.

(i) The department or evaluating organization shall determine the specific metrics required in the report and notify the local units of government at the time of the first grant disbursement.

(j) No later than September 30, 2023, and annually after that, the department shall compile and submit an annual report to the chief clerks of the senate and the house of representatives for distribution to the finance, ways and means committees, judiciary committees, and health committees of each house. The department shall also publish a copy of the report on the department's website. The report must contain all of the following for the immediately preceding fiscal year:

(1) The name of each local unit of government that received a grant and the total amount of the grant;

(2) Details about any subgrant disbursed by each local unit of government that received a grant under this section;

(3) An analysis of the activities undertaken by grant recipients as part of their project; and

(4) An appropriate summary of metrics reported by grant recipients as required under subsection (h).

(k) The responsibilities of the department under this section include the following:

(1) Create the behavioral health jail diversion grant program, review grant applications, and distribute grants;

(2) Determine appropriate staffing and resource allocation for grant review, administration, and other duties;

(3) Coordinate with the council to determine appropriate staffing and resource allocation for grant review, administration, and other duties;

(4) Manage external evaluation and ensure that metrics are collected by grant recipients in order to determine program results and inform best practices; and

(5) Provide technical assistance and coordination, and facilitate sharing of best practices among grant recipients.

33-12-104.

(a) Subject to appropriation to the jail diversion fund created under § 33-12-102, the department shall create a community crisis response grant program, in accordance with the recommendations of the council, using half of appropriated funds, gifts, grants,

and other donations, to provide competitive grants to assist local units of government that apply according to the criteria outlined in this section.

(b) The department shall distribute grants to local units of government in accordance with recommendations of the council for the purpose of establishing or expanding community-based mobile crisis intervention services. The department shall give priority to grant applications that demonstrate a commitment to best practices as identified by the department in coordination with the council.

(c) A grant application may be made by any applicable local unit of government, and grants must be distributed to a local unit of government using a prospective payment methodology.

(d) Each local unit of government receiving a grant under this section must provide to the department a copy of a memorandum of understanding between the involved community agencies and law enforcement agencies that delineates how behavioral health professionals and law enforcement officers will be coordinated.

(e) The department shall create an application process with selection criteria for grants under subsection (b) and a grant dispersal process under subsection (c). The department shall post the application process, selection criteria, and grant dispersal process on the department's website.

(f) The department shall seek federal authority as outlined under § 9813 of the American Rescue Plan Act of 2021, Public Law 117-2, to utilize enhanced federal medicaid matching funds for the operation of eligible programs receiving grants under this section as long as that funding is available.

(g) Each year, a local unit of government that receives a grant under this section shall cooperate with an organization, selected by the department, to describe and evaluate the activities and results of the local unit of government related to the grant.

The department may use a portion of grant funding appropriated to the jail diversion fund to contract with an independent organization to fulfill this requirement.

(h) The department or evaluating organization shall determine the specific metrics required in the report and notify the local units of government at the time of the first grant disbursement. Metrics may include, but are not limited to, the following:

(1) Total number of behavioral health crisis calls in the target jurisdiction;

(2) Number of calls to which a community crisis responder clinician or community crisis responder peer is dispatched according to the requirements of the local unit of government's grant application;

(3) Number of calls transferred to telehealth with physical response follow-up and the number of calls transferred to telehealth without physical response follow-up;

(4) Community crisis responder clinician and community crisis responder peer call time per call;

(5) A survey of clients served by community crisis response;

(6) Number of calls with community crisis response that result in the following:

(i) Jail admission;

(ii) On-location de-escalation;

(iii) Access to crisis stabilization services and other community-based supports and service;

(iv) Inpatient admission to a behavioral health facility;

(v) Referral for behavioral or mental health services without residential or inpatient admission; and

(vi) Referral to community or social services, including, but not limited to, homeless shelters, women's shelters, food pantries, or other similar services;

(7) Number of individuals served by community crisis response broken down by age, gender, race, and ethnicity;

(8) Reduction in frequency of law enforcement interaction with known frequently served individuals;

(9) Number of follow-up visits, including method and location; and

(10) Overall program costs broken down by administration, training, community crisis responder clinician and community crisis responder peer, and per call costs.

(i) No later than September 30, 2023, and annually after that, the department shall compile and submit an annual report to the chief clerks of the senate and the house of representatives for distribution to the finance, ways and means committees, judiciary committees, and health committees of each house. The department shall also publish a copy of the report on the department's website. The report must contain all of the following for the immediately preceding fiscal year:

(1) The name of each local unit of government that received a grant and the total amount of the grant;

(2) Details about any subgrants disbursed by each local unit of government that received a grant under this section;

(3) An analysis of the activities undertaken by grant recipients as part of their project, including alignment with best practices;

(4) An appropriate summary of metrics reported by grant recipients as required under subsection (h); and

(5) Recommendations for improvements to grant criteria described in subsection (b).

(j) The responsibilities of the department under this section include the following:

(1) Create the community crisis response grant program, review grant applications, and distribute grants;

(2) Determine appropriate staffing and resource allocation for the council for grant review, administration, and other duties;

(3) Develop a model memorandum of understanding between community agencies and law enforcement;

(4) Manage external evaluation and ensure that metrics are collected by grant recipients in order to determine future best practices and criteria for future grants;

(5) Provide technical assistance and coordination and facilitate sharing of best practices among grant recipients; and

(6) Assist with cross-training resources between law enforcement and community crisis responder clinicians and community crisis responder peers.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.