



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 ASSEMBLY BILL 52

February 17, 2015 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to
Committee on Corrections.

1 **AN ACT** *to repeal* 15.145 (5), 165.95 (1) (a), 165.95 (1) (b), 165.95 (2r), 165.95 (3)
2 (a), 165.95 (3) (d), (e) and (f), 165.95 (3) (j), 165.95 (5m), 165.95 (8), 165.95 (9),
3 165.95 (10) and 301.095; *to renumber and amend* 165.95 (5) (a) and 165.95
4 (5) (b); *to amend* 20.455 (2) (em), 20.455 (2) (kn), 20.455 (2) (kv), 165.95 (1)
5 (intro.), 165.95 (2), 165.95 (3) (intro.), 165.95 (3) (b), 165.95 (3) (c), 165.95 (3) (g),
6 165.95 (3) (h), 165.95 (3) (i), 165.95 (3) (k), 165.95 (4), 165.95 (6), 165.95 (7),
7 165.95 (7m), 165.955 (2), 302.43, 950.04 (1v) (g), 961.472 (5) (b), 967.11, 973.09
8 (1) (d) and (4) (a) and 973.155 (1m); and *to create* 15.257 (3), 165.847, 165.95
9 (1) (ag), 165.95 (1) (am), 165.95 (1) (ar), 165.95 (1) (av), 165.95 (3) (ae), 165.95
10 (3) (ag), 165.95 (3) (bd), 165.95 (3) (cm) 2., 165.95 (3) (hm), 165.95 (3m), 165.95
11 (5) (bg), 165.95 (5p) and 973.09 (4g) of the statutes; **relating to:** creating the
12 criminal justice coordinating council, providing grants to certain county or

ASSEMBLY BILL 52

1 tribal criminal justice projects, home detention for probation, and making
2 appropriations.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Problem-Solving Courts, Alternatives, and Diversions.

Treatment Alternatives and Diversions

Under current law, the Department of Justice (DOJ) provides grants to counties that have established qualifying treatment alternatives and diversion (TAD) projects for persons who are or may be charged with, or who are convicted of, offenses related to the person's use or abuse of alcohol or other drugs. TAD projects are intended to offer alternatives to prosecution or incarceration for offenders with substance abuse problems in order to reduce recidivism, promote public safety, and reduce prison and jail populations.

In order to qualify for a TAD grant, a county's project must meet certain criteria, including offering treatment alternatives for the offender's substance abuse, and coordinating with other specialists, including mental health treatment providers, social services providers, and case workers in order to provide intensive case management. Each qualifying project must be developed in collaboration with representatives from the judicial system, law enforcement and corrections, social and welfare service providers, and mental health and substance abuse treatment providers. Further, each county that receives a TAD grant creates an oversight committee with representatives from those agencies or services to administer and evaluate the project.

A qualifying TAD project is subject to state audits and each county that receives a TAD grant must submit an annual report to DOJ and to the oversight committee that details its progress in promoting public safety, reducing recidivism and lowering costs, and meeting the treatment and other needs of program participants.

Current law allows counties to administer a project jointly and requires any county that receives a grant to provide matching funds that are equal to 25 percent of the amount of the grant. Eligible projects must require participants to pay a reasonable amount for their treatment within the project. Finally, under current law, the governor has created by executive order a criminal justice coordinating council (CJCC), that is charged with various duties regarding criminal justice policy and administration.

The bill creates a CJCC in DOJ, consisting of nine members who are members by virtue of the office they hold and 11 members appointed by the governor for three-year terms.

ASSEMBLY BILL 52

Because the CJCC has assumed the duties of the current council on offender re-entry with the department of corrections, the bill repeals references to the council.

Under the bill, in addition to studying, and providing advice and making recommendations to the governor on a variety of matters relating to the criminal justice system, CJCC advises DOJ in its administration of the TAD program.

This bill makes several changes to the TAD grant program. Under the bill, counties and tribes may qualify for TAD grants; the bill allows a county or tribe to administer a program jointly with another county or tribe. Under the bill, in order to be eligible for a TAD grant, a project must operate within the continuum from arrest to discharge from supervision and provide an alternative to prosecution, incarceration, or both. Under the bill, a project need not focus solely on alcohol and other drug treatment, but must be evidence-based and designed to promote effective criminal justice policies to reduce prosecution and incarceration costs, reduce recidivism, and enhance justice and public safety.

The bill requires each project to be designed to integrate and coordinate services from several providers, including a participant's behavioral health treatment providers, case managers, and compliance monitors. The bill requires each project to use evidence-based eligibility criteria to determine who may participate in the project and to tailor its services to the needs of each participant or target population.

The bill allows, but does not require, an eligible project to require participants to pay an amount towards their treatment. The bill eliminates the 25 percent matching funds requirement.

Under the bill, DOJ must consult with CJCC to establish eligibility criteria and to determine which county or tribe projects meet the eligibility requirements. The bill requires each county or tribe to establish a criminal justice oversight committee to develop and implement the project design and advise the county or tribe in administering and evaluating its project.

Under the bill, a project must specify whether or not certain violent offenders will be allowed to participate. If so, there must be a victim advocate on the project's oversight committee, if such an advocate exists in the project's county. If the project includes domestic abuse offenders, the oversight committee must consult with a batterers' treatment provider.

Under the bill, each county or tribe that receives a grant must, monthly, submit data requested by DOJ in order to allow DOJ to evaluate the project. The bill requires DOJ to use this data to prepare an annual progress report that it submits to the TAD council and makes available to the public. The bill requires DOJ to prepare, for submission to CJCC and to each house of the legislature, a comprehensive report every five years that includes a cost benefit analysis of the TAD grant program. The evaluation is funded from TAD appropriation, and the DOJ may enter into a contract with an independent entity to conduct the evaluation.

The bill increases an appropriation to the supreme court to fund a statewide treatment court coordinator in the office of the director of state courts.

Home Detention for Probation

Current law provides that if a person is convicted of an offense, for which there is a mandatory or presumptive minimum period of one year or less of

ASSEMBLY BILL 52

imprisonment, a court may place the person on probation if the court requires that the person be confined for at least that mandatory or presumptive minimum period as a condition of the probation. The person is eligible to earn good time credit calculated regarding the period of confinement. In *State v. Eastman*, 220 Wis. 2d 330, 339, (Ct. App. 1998), the court of appeals clarified that a court's authority did not include the ability to order home detention as a condition of probation if a person is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment.

Current law also authorizes a county sheriff, or a house of correction superintendent, to place in the home detention program any person confined in jail who has been arrested for, charged with, convicted of, or sentenced for a crime.

The bill provides express authority for a court to order that a probationer, including a probationer who is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment, be confined in jail or placed in detention at the probationer's place of residence or other place designated by the court, or both, as a condition of probation during such period of the term of probation as the court prescribes, but not to exceed one year. The detention must be monitored by the use of an electronic device worn continuously on the probationer's person and be capable of providing positive identification of the wearer at the detention location at any time. A probationer in detention is eligible for good time credit. The defendant must agree to the condition of probation; must be given the terms of the condition of probation in writing; and may be required to pay a daily fee to cover the costs associated with home detention monitoring.

1 **SECTION 1.** 15.145 (5) of the statutes is repealed.

NOTE: SECTION 1 repeals the council on offender re-entry in the Department of Corrections (DOC). The council's duties have been assumed by the CJCC, created in this bill.

2 **SECTION 2.** 15.257 (3) of the statutes is created to read:

3 **15.257 (3) CRIMINAL JUSTICE COORDINATING COUNCIL.** (a) There is created in the
4 department of justice a criminal justice coordinating council consisting of the
5 following members:

6 1. The secretary of corrections, or his or her designee, who shall serve as
7 cochairperson.

8 2. The attorney general, or his or her designee, who shall serve as
9 cochairperson.

10 3. The state public defender, or his or her designee.

11 4. A sheriff.

ASSEMBLY BILL 52

- 1 5. A chief of police.
- 2 6. A district attorney.
- 3 7. The director of state courts, or his or her designee.
- 4 8. The secretary of workforce development, or his or her designee.
- 5 9. The secretary of children and families, or his or her designee.
- 6 10. The secretary of health services, or his or her designee.
- 7 11. The secretary of veterans affairs, or his or her designee.
- 8 12. The chairperson of the committee of chief judges of the circuit courts, or his
9 or her designee.
- 10 13. A county executive or county administrator.
- 11 14. A county criminal justice coordinator or a member serving on a county
12 criminal justice coordinating council.
- 13 15. A representative of a crime victim rights or crime victim services
14 organization.
- 15 16. A person with experience in mental health issues and the criminal justice
16 system.
- 17 17. A representative of a federally recognized American Indian tribe or band
18 in this state.
- 19 18. Three other members.
- 20 (b) Each member specified in par. (a) 4. to 6. and 13. to 17. shall be appointed
21 by the governor for a 3-year term.
- 22 (c) The members specified in par. (a) 1. to 7. shall constitute an executive
23 committee.
- 24 (d) The criminal justice coordinating council shall meet not less than 4 times
25 each year.

ASSEMBLY BILL 52**SECTION 2**

NOTE: SECTION 2 creates the CJCC in DOJ.

1 **SECTION 3.** 20.455 (2) (em) of the statutes is amended to read:

2 20.455 (2) (em) *Alternatives to prosecution and incarceration for persons who*
3 *use alcohol or other drugs; presentencing assessments.* The amounts in the schedule
4 for making grants to counties and tribes under s. 165.95 (2) and entering into
5 contracts under s. 165.95 (5p) (c).

NOTE: This SECTION and SECTIONS 4, 5, 10, 25, 27, 30, 32, 33, 34, 35, 38, and 40 allow tribes, in addition to counties, to be eligible recipients of TAD grants and to enter into contracts to operate TAD projects.

6 **SECTION 4.** 20.455 (2) (kn) of the statutes is amended to read:

7 20.455 (2) (kn) *Alternatives to prosecution and incarceration for persons who*
8 *use alcohol or other drugs; justice information fee.* The amounts in the schedule for
9 administering and making grants to counties and tribes under s. 165.95 (2). All
10 moneys transferred from the appropriation account under s. 20.505 (1) (id) 5. shall
11 be credited to this appropriation account.

12 **SECTION 5.** 20.455 (2) (kv) of the statutes is amended to read:

13 20.455 (2) (kv) *Grants for substance abuse treatment programs for criminal*
14 *offenders projects.* All moneys received under s. 961.41 (5) (c) 2. or 973.043 for the
15 purpose of making grants to counties and tribes under s. 165.95 (2) and entering into
16 contracts under s. 165.95 (5p) (c).

17 **SECTION 6.** 165.847 of the statutes is created to read:

18 **165.847 Criminal justice coordinating council.** The criminal justice
19 coordinating council shall do all of the following:

20 (1) Study and provide recommendations to the governor, the legislature, the
21 department of corrections, the department of health services, and the department of
22 workforce development on matters related to coordinating the services of state and

ASSEMBLY BILL 52

1 local government agencies and nongovernmental entities in the criminal justice
2 system to increase efficiency, effectiveness, and public safety.

3 (2) Provide recommendations to the governor, the legislature, the department
4 of corrections, the department of health services, and the department of workforce
5 development regarding the use of evidence-based practices, risk reduction
6 programming, crime prevention, diversion, and community-based alternatives to
7 confinement to increase public safety, reduce recidivism, and improve offender and
8 system accountability.

9 (3) Study county-level programs related to criminal justice, including
10 treatment alternatives, diversion initiatives, and specialty courts, and disseminate
11 information about programs the council determines are effective and innovative.

12 (4) Facilitate the development of county or multicounty criminal justice
13 oversight committees.

14 (5) Provide recommendations to the governor, the legislature, the department
15 of corrections, the department of health services, and the department of workforce
16 development regarding the collection and synthesis of real-time criminal justice
17 data and the tracking of system indicators.

18 (6) Assist the governor in identifying stable and adequate funding sources for
19 the criminal justice system and identifying areas where greater cost-effectiveness
20 could be achieved.

21 (7) Assist the governor in evaluating criminal justice policies.

22 (8) Study, and make recommendations to the governor, the legislature, the
23 department of corrections, the department of health services, and the department of
24 workforce development, regarding areas in the criminal justice system in which
25 improved collaboration and coordination would increase the effectiveness or

ASSEMBLY BILL 52**SECTION 6**

1 efficiency of services by eliminating duplication, filling service gaps, or improving the
2 quality of services provided.

3 (9) Study whether racial, demographic, or other disparities exist between
4 treatment court participants and individuals who are denied participation, and
5 make recommendations to the governor, the attorney general, the legislature, the
6 department of corrections, and the department of justice, on how to remediate such
7 disparities.

8 (10) Assist the governor with strategic planning for, and management of,
9 federal block grant or federal formula grant funds.

10 (11) Annually, submit a report on the progress of the council's work to the chief
11 clerk of each house of the legislature, for distribution to the appropriate standing
12 committees under s. 13.172 (3), the governor, the chief justice of the supreme court,
13 the department of corrections, the department of health services, and the
14 department of workforce development.

15 (12) Develop a system that tracks and reports, on a monthly basis, state
16 criminal justice data, including all of the following:

17 (a) The rate of violent crime, as reported by law enforcement agencies in
18 uniform crime reports or incident-based reports.

19 (b) The average daily population of prisons and county jails.

20 (c) The number of felony criminal cases filed in circuit courts.

21 (d) The number of persons sentenced to prison by the circuit courts.

22 (e) The number of persons imprisoned due to revocation of parole or extended
23 supervision.

24 (f) The number of persons imprisoned due to probation revocation.

25 (g) The number of persons released to parole or extended supervision.

ASSEMBLY BILL 52

1 (h) The number of persons placed on probation by the courts.

2 (i) The number of persons discharged from probation, parole, or extended
3 supervision.

NOTE: This SECTION sets forth the duties of the CJCC.

4 **SECTION 7.** 165.95 (1) (intro.) of the statutes is amended to read:

5 165.95 (1) (intro.) In this section, ~~“violent offender” means a person to whom~~
6 ~~one of the following applies:~~

7 **SECTION 8.** 165.95 (1) (a) of the statutes is repealed.

NOTE: SECTIONS 7, 13, and 15 repeal the current definition of “violent offender” used in the TAD program; this definition is recreated in Section 11 of the bill. Section 15 also repeals the requirement that any county that receives a grant under this section on or after January 1, 2012, shall provide matching funds that are equal to 25 percent of the amount of the grant.

8 **SECTION 9.** 165.95 (1) (ag) of the statutes is created to read:

9 165.95 (1) (ag) “Evidence-based” means using research to determine how
10 effective a practice is at achieving positive measurable outcomes, including reducing
11 recidivism and increasing public safety.

NOTE: Sections 9, 10, 11, and 12 create definitions of “evidence-based,” “tribe,” “violent offender,” and “violent offense,” which are used in the TAD program as modified in this bill.

12 **SECTION 10.** 165.95 (1) (am) of the statutes is created to read:

13 165.95 (1) (am) “Tribe” has the meaning given in s. 165.91.

14 **SECTION 11.** 165.95 (1) (ar) of the statutes is created to read:

15 165.95 (1) (ar) “Violent offender” means a person who has been charged with
16 or convicted of a violent offense in a pending case.

17 **SECTION 12.** 165.95 (1) (av) of the statutes is created to read:

18 165.95 (1) (av) “Violent offense” means any of the following:

19 1. An offense during which the person carried, possessed, or used a dangerous
20 weapon.

ASSEMBLY BILL 52**SECTION 12**

1 2. An offense during which the person used force against another person.

2 3. As a result of the person's offense, a person died or suffered serious bodily
3 harm.

4 4. A serious sex offense, as defined in s. 939.615 (1) (b).

5 **SECTION 13.** 165.95 (1) (b) of the statutes is repealed.

6 **SECTION 14.** 165.95 (2) of the statutes is amended to read:

7 165.95 (2) The department of justice shall make grants to counties and to tribes
8 to enable them to establish and operate ~~programs~~ projects, including suspended and
9 deferred prosecution ~~programs~~ projects and ~~programs based on principles of~~
10 restorative justice, projects that operate within the continuum from arrest to
11 discharge from supervision that provide alternatives to prosecution and,
12 incarceration, or both, for criminal offenders ~~who abuse alcohol or other drugs~~. The
13 department of justice shall make the grants from the appropriations under s. 20.455
14 (2) (em), (kn), and (kv). The department of justice shall collaborate with the
15 departments of corrections and health and family services in establishing this grant
16 ~~program~~ criminal justice coordinating council in order to maximize the impact of the
17 projects funded by grants awarded under this section.

NOTE: SECTION 14 changes references in the current TAD statute from "program" to "projects." It also describes TAD describes TAD projects as those "that operate within the continuum from arrest to discharge from supervision" and that provide alternatives to prosecution, incarceration, or both. Also, it provides that these projects are not limited to criminal offenders who abuse alcohol or other drugs. Finally, it requires the DOJ to consult with the CJCC, rather than the departments of corrections and family services, both of which are members of the CJCC.

18 **SECTION 15.** 165.95 (2r) of the statutes is repealed.

19 **SECTION 16.** 165.95 (3) (intro.) of the statutes is amended to read:

20 165.95 (3) (intro.) A county or tribe shall be eligible for a grant under sub. (2)
21 if all of the following apply:

ASSEMBLY BILL 52

1 **SECTION 17.** 165.95 (3) (a) of the statutes is repealed.

NOTE: SECTION 17 repeals a provision under the current TAD statute that provides that it is designed to meet the needs of a person who abuses alcohol or other drugs and who may be or has been charged with or who has been convicted of a crime in that county related to the person's use or abuse of alcohol or other drugs.

2 **SECTION 18.** 165.95 (3) (ae) of the statutes is created to read:

3 165.95 **(3)** (ae) 1. The project specifies whether a violent offender is eligible to
4 participate in the project, and further specifies whether a violent offender who, in a
5 pending case, is charged or convicted of a violent offense, described in sub. (1) (av)
6 4. or a violent offender who, in a pending case, is charged or convicted of a domestic
7 abuse offense as defined in s. 968.075 (1) (a), or both, is eligible to participate in the
8 project.

9 2. If a project specifies that a violent offender is eligible to participate in the
10 project, the project shall do all of the following:

11 a. Include at least one representative of an organization that advocates for
12 victims of violent crime on the criminal justice oversight committee specified in par.
13 (cm), provided such an advocate exists in the project's county.

14 b. If a violent offender who, in a pending case, has been charged or convicted
15 of a domestic abuse offense, as defined in s. 968.075 (1) (a), is allowed to participate
16 in the project, the criminal justice oversight committee specified in par. (cm) shall
17 consult with a batterers' treatment provider and define how batterers' treatment will
18 be used to treat these violent offenders.

19 c. At the request of the victim, have the district attorney make a reasonable
20 attempt to provide the victim with notice of the date, time, and place of scheduled
21 court proceedings that are held in connection with the violent offender's
22 participation in the project.

ASSEMBLY BILL 52**SECTION 18**

NOTE: SECTION 18 changes the TAD program provisions regarding violent offender participation. The project must specify, in its application, whether or not a violent offender is eligible to participate in the project. A “violent offender” is a person who has been charged with or convicted of a violent offense, in a pending case. A “violent offense” means any of the following:

1. An offense during which the person carried, possessed, or used a dangerous weapon.
2. An offense during which the person used force against another person.
3. As a result of the person’s offense, a person died or suffered serious bodily harm.
4. A serious sex offense, as defined in s. 939.615 (1) (b).

If the project specifies that a violent offender is eligible to participate, the project must do all of the following:

1. Include at least one representative of an organization that advocates for victims of violent crime on the project’s criminal justice oversight committee, provided such an advocate exists in the project’s county.
2. If a violent offender who, in a pending case, has been charged or convicted of a domestic abuse offense is eligible to participate in the project, the criminal justice oversight committee must consult with a batterers’ treatment provider and define how batterers’ treatment will be used to treat these violent offenders.
3. At the request of the victim, have the district attorney make a reasonable attempt to provide the victim with notice of the date, time, and place of scheduled court proceedings that are held in connection with the violent offender’s participation in the project.

1 **SECTION 19.** 165.95 (3) (ag) of the statutes is created to read:

2 165.95 (3) (ag) The project operates within the continuum from arrest to
3 discharge from supervision and provides an alternative to prosecution,
4 incarceration, or both, including suspended and deferred prosecution or
5 community-based corrections.

NOTE: SECTION 19 provides that, in order to be eligible for a TAD grant, the project must operate within the continuum from arrest to discharge from supervision and provide alternatives to prosecution, incarceration, or both, including deferred prosecution or community-based corrections.

6 **SECTION 20.** 165.95 (3) (b) of the statutes is amended to read:

7 165.95 (3) (b) The program project is evidence-based and is designed to
8 promote and facilitate the implementation of effective criminal justice policies and

ASSEMBLY BILL 52

1 practices that maximize justice and public and victim safety, reduce prison and jail
2 populations, reduce prosecution and incarceration costs, and reduce recidivism, ~~and~~
3 ~~improve the welfare of participants' families by meeting the comprehensive needs of~~
4 ~~participants.~~

5 **SECTION 21.** 165.95 (3) (bd) of the statutes is created to read:

6 165.95 (3) (bd) The project identifies each target population served by the
7 project and identifies the evidence-based practices the project employs for each
8 target population it serves.

9 **SECTION 22.** 165.95 (3) (c) of the statutes is amended to read:

10 165.95 (3) (c) ~~The program establishes~~ project uses evidence-based eligibility
11 criteria for a person's participation. ~~The criteria shall specify that a violent offender~~
12 ~~is not eligible to participate in the program, including validated risk, needs, and~~
13 ~~responsivity assessment instruments, to determine who is eligible for participation~~
14 in the project.

NOTE: SECTIONS 20 to 22 modify current criteria and create new criteria for projects
to comply with in order to be eligible to receive a TAD grant.

15 **SECTION 23.** 165.95 (3) (cm) 2. of the statutes is created to read:

16 165.95 (3) (cm) 2. If the project is administered by a tribe, the criminal justice
17 oversight committee shall consist of a representative of each of the following: the
18 judiciary, criminal prosecution and criminal defense, social services providers,
19 behavioral health treatment providers, law enforcement, corrections, and other
20 members the oversight committee determines are appropriate to the project.

NOTE: SECTION 23 specifies the required membership of the criminal justice
oversight committee of a project that is administered by a tribe.

21 **SECTION 24.** 165.95 (3) (d), (e) and (f) of the statutes are repealed.

NOTE: SECTION 24 repeals the following three criteria that TAD projects currently
must meet relating to services and treatment provisions:

ASSEMBLY BILL 52**SECTION 24**

- The services provided under the program are consistent with evidence-based practices in substance abuse and mental health treatment, as determined by the Department of Health Services, and the program provides intensive case management.

- The program uses graduated sanctions and incentives to promote successful substance abuse treatment.

- The program provides holistic treatment to its participants and provides them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court-ordered obligations.

1 **SECTION 25.** 165.95 (3) (g) of the statutes is amended to read:

2 165.95 (3) (g) The ~~program project~~ is designed to integrate all mental health
3 services provided to ~~program project~~ participants by state and local government
4 agencies, tribes, and other organizations. The ~~program project~~ shall require regular
5 communication and coordination among a participant's ~~substance abuse treatment~~
6 ~~providers~~, other service providers, the case manager, and any person designated
7 under the ~~program project~~ to monitor the person's compliance with his or her
8 obligations under the ~~program project~~, and any probation, extended supervision, and
9 parole agent assigned to the participant.

NOTE: SECTION 25 changes references from TAD "program" to "project" and provides that the projects are not limited to mental health services or substance abuse treatment.

10 **SECTION 26.** 165.95 (3) (h) of the statutes is amended to read:

11 165.95 (3) (h) The ~~program project~~ provides ~~substance abuse and mental health~~
12 ~~treatment~~ services through providers that use evidence-based practices in the
13 delivery of services and, where applicable, that are certified by the department of
14 health services or licensed to provide the services approved under the project.

NOTE: SECTION 26 makes the same changes as SECTION 25. It also requires service providers to use evidence-based practices in the delivery of services and to be certified or licensed to do so.

15 **SECTION 27.** 165.95 (3) (hm) of the statutes is created to read:

ASSEMBLY BILL 52

1 165.95 (3) (hm) The county or tribe agrees to submit data as requested under
2 sub. (5).

NOTE: SECTION 27 requires county and tribal applicants for TAD projects to agree to submit requested data to DOJ.

3 **SECTION 28.** 165.95 (3) (i) of the statutes is amended to read:

4 165.95 (3) (i) The ~~program requires participants~~ project may require
5 participants to pay a reasonable amount for their treatment, based on their income
6 and available assets, and pursues and uses all possible resources available through
7 insurance and federal, state, and local aid programs, including cash, vouchers, and
8 direct services.

NOTE: SECTION 28 changes a requirement in current law that participants must pay a reasonable amount for their treatment, to an optional provision.

9 **SECTION 29.** 165.95 (3) (j) of the statutes is repealed.

NOTE: SECTION 29 repeals the requirement that a TAD project be developed with input from, and implemented in collaboration with, one or more circuit court judges, the district attorney, the state public defender, local law enforcement officials, county agencies responsible for providing social services, including services relating to alcohol and other drug addiction, child welfare, mental health, and the Wisconsin Works program, DOC, the Departments of Children and Families, and Health Services, private social services agencies, and substance abuse treatment providers. This requirement is replaced with the requirement that the project work with a criminal justice oversight committee, as provided in SECTION 33.

10 **SECTION 30.** 165.95 (3) (k) of the statutes is amended to read:

11 165.95 (3) (k) The county or tribe complies with other eligibility requirements
12 established by the department of justice, in consultation with the criminal justice
13 coordinating council, to promote the objectives listed in ~~pars. (a) and (b)~~ this
14 subsection.

15 **SECTION 31.** 165.95 (3m) of the statutes is created to read:

ASSEMBLY BILL 52**SECTION 31**

1 165.95 (3m) The department of justice shall consult with the criminal justice
2 coordinating council to determine which projects meet the specifications set forth in
3 sub. (3) and will receive a grant under this section.

NOTE: SECTIONS 30 and 31 require DOJ consultation with the CJCC with regard
to certain TAD project requirements.

4 **SECTION 32.** 165.95 (4) of the statutes is amended to read:

5 165.95 (4) In implementing a ~~program~~ project that meets the requirements of
6 sub. (3), a county department or a tribe may contract with or award grants to a
7 religious organization under s. 59.54 (27).

8 **SECTION 33.** 165.95 (5) (a) of the statutes is renumbered 165.95 (3) (cm) and
9 amended to read:

10 165.95 (3) (cm) ~~A county that receives a grant under this section shall create~~
11 ~~an~~ The project identifies a criminal justice oversight committee to develop and
12 implement the project design and advise the county or tribe in administering and
13 evaluating its program. Each project.

14 1. If the project is administered by a county, or by a county and a tribe pursuant
15 to sub. (6), the criminal justice oversight committee shall consist of a circuit court
16 judge, the district attorney or his or her designee, the state public defender or his or
17 her designee, a local law enforcement official, a representative of the county, a
18 representative of the tribe, if applicable, a representative of each other county and,
19 if applicable, the tribal agency responsible for providing social services, including
20 services relating to child welfare, ~~mental health, and the Wisconsin Works program,~~
21 representatives of the departments of corrections and health and family services, a
22 representative from private social services agencies, a representative of substance

ASSEMBLY BILL 52

1 ~~abuse behavioral health~~ treatment providers, and other members ~~to be determined~~
2 ~~by the county~~ the oversight committee determines are appropriate to the project.

NOTE: SECTION 33 specifies some of the members required to be on the county or tribal criminal justice oversight committee that will develop and implement the TAD project design, and advise the county or tribe administering and evaluating the project.

3 **SECTION 34.** 165.95 (5) (b) of the statutes is renumbered 165.95 (5) (ag) and
4 amended to read:

5 165.95 (5) (ag) A county or tribe that receives a grant under this section shall
6 comply with state audits and shall submit an annual report ~~to the department of~~
7 ~~justice and to the~~ criminal justice oversight committee created under par. (a)
8 identified in sub. (3) (cm) regarding ~~the impact of the program on jail and prison~~
9 ~~populations and its progress in attaining the goals specified in sub. (3) (b) and (f).~~

NOTE: SECTION 33 provides that a county or tribe that receives a TAD grant shall submit with state audits and requires it to submit its annual report to the CJCC, and not DOJ. It also removes the requirement that the annual report address the impact that the project has on jail and prison populations.

10 **SECTION 35.** 165.95 (5) (bg) of the statutes is created to read:

11 165.95 (5) (bg) A county or tribe that receives a grant under this section shall
12 submit data requested by the department of justice to the department of justice each
13 month. The department of justice may request any data regarding the project funded
14 by the grant that is necessary to evaluate the project and prepare the reports under
15 sub. (5p).

NOTE: SECTION 35 contains data submittal requirements for the TAD projects.

16 **SECTION 36.** 165.95 (5m) of the statutes is repealed.

NOTE: SECTION 36 deletes urine testing specifications.

17 **SECTION 37.** 165.95 (5p) of the statutes is created to read:

ASSEMBLY BILL 52**SECTION 37**

1 165.95 (5p) (a) The department of justice shall, annually, analyze the data
2 submitted under sub. (5) (bg) and prepare a progress report that evaluates the
3 effectiveness of the grant program. The department of justice shall submit a copy of
4 the report to the criminal justice coordinating council and shall make the report
5 available to the public.

6 (b) The department of justice shall, every 5 years, prepare a comprehensive
7 report that analyzes the data it receives under sub. (5) (bg) and the annual reports
8 it produces under par. (a). The department of justice shall include in this
9 comprehensive report a cost benefit analysis of the grant program and shall submit
10 the report to the criminal justice coordinating council and to the chief clerk of each
11 house of the legislature for distribution to the legislature under s. 13.172 (2).

12 (c) The department of justice may enter into one or more contracts with another
13 person for the purpose of evaluating the grant program and preparing the reports
14 under pars. (a) and (b). The department of justice shall fund such contracts from
15 moneys appropriated under s. 20.455 (2) (em) and (kv) with not more than 10 percent
16 of the amount awarded as grants under sub. (2).

NOTE: Section 37 creates a new evaluation requirement for the TAD program as
modified in this bill.

17 **SECTION 38.** 165.95 (6) of the statutes is amended to read:

18 165.95 (6) ~~Two or more counties~~ A county or tribe may, with one or more other
19 counties or tribes, jointly apply for and receive a grant under this section. ~~If counties~~
20 ~~submit~~ Upon submitting a joint application, ~~they~~ each county or tribe shall include
21 ~~with their~~ the application a written agreement specifying each tribe's and each
22 county department's role in developing, administering, and evaluating the ~~program~~
23 project. ~~The criminal justice oversight committee established under sub. (5) (a)~~

ASSEMBLY BILL 52

1 identified in sub. (3) (cm) shall consist of representatives from each county or tribe
2 that participates in the project.

3 **SECTION 39.** 165.95 (7) of the statutes is amended to read:

4 165.95 (7) Grants provided under this section shall be provided on a calendar
5 year basis ~~beginning on January 1, 2007. If the department of justice decides to make~~
6 ~~a grant to a county under this section, the department of justice shall notify the~~
7 ~~county of its decision and the amount of the grant no later than September 1 of the~~
8 ~~year preceding the year for which the grant will be made.~~

NOTE: SECTION 39 eliminates the requirement that if DOJ decides to make a
TAD grant to a county, that it must notify the county by September 1 of its
decision, and the amount of the grant.

9 **SECTION 40.** 165.95 (7m) of the statutes is amended to read:

10 165.95 (7m) Beginning in fiscal year ~~2012-13~~ 2014-15, the department of
11 justice shall, every 5 years, make grants under this section available to any county
12 or tribe on a competitive basis. A county or tribe may apply for a grant under this
13 subsection regardless of whether the county or tribe has received a grant previously
14 under this section.

15 **SECTION 41.** 165.95 (8) of the statutes is repealed.

NOTE: SECTION 41 deletes a requirement that the DOJ must assist a county
receiving a grant under this section in obtaining funding from other sources for
its program.

16 **SECTION 42.** 165.95 (9) of the statutes is repealed.

NOTE: SECTION 42 deletes a requirement that the DOJ must inform any county
that is applying for a grant under this section whether the county meets the
application requirements, regardless of whether the county receives a grant.

17 **SECTION 43.** 165.95 (10) of the statutes is repealed.

18 **SECTION 44.** 165.955 (2) of the statutes is amended to read:

ASSEMBLY BILL 52**SECTION 44**

1 165.955 (2) From the appropriation under s. 20.455 (2) (eg), the department of
2 justice shall provide, to counties that have not established a drug court, grants to
3 establish and operate drug courts. The department of justice shall evaluate, every
4 2 years, the grant program established under this section. The evaluation shall be
5 funded from the appropriations under s. 20.455 (2) (eg). The department of justice
6 may enter into a contract with an entity not affiliated with the grant program to
7 conduct an independent evaluation of the grant program every 2 years.

NOTE: SECTION 44 requires DOJ to evaluate drug courts established under that section, and requires the DOJ to evaluate the program every two years. This provision specifies the funding source for the required evaluation, and provides that DOJ may enter into a contract with an independent entity that is not affiliated with the program to conduct the evaluation.

8 **SECTION 45.** 301.095 of the statutes is repealed.

NOTE: SECTION 45 repeals the council on offender reentry within the DOC. The council's duties are assumed by the CJCC, created in this bill.

9 **SECTION 46.** 302.43 of the statutes is amended to read:

10 **302.43 Good time.** Every inmate of a county jail is eligible to earn good time
11 in the amount of one-fourth of his or her term for good behavior if sentenced to at
12 least 4 days, but fractions of a day shall be ignored. An inmate shall be given credit
13 for time served prior to sentencing under s. 973.155, including good time under s.
14 973.155 (4). An inmate who violates any law or any regulation of the jail, or neglects
15 or refuses to perform any duty lawfully required of him or her, may be deprived by
16 the sheriff of good time under this section, except that the sheriff shall not deprive
17 the inmate of more than 2 days good time for any one offense without the approval
18 of the court. An inmate who files an action or special proceeding, including a petition
19 for a common law writ of certiorari, to which s. 807.15 applies shall be deprived of
20 the number of days of good time specified in the court order prepared under s. 807.15

ASSEMBLY BILL 52

1 (3). This section does not apply to a person who is confined in the county jail in
2 connection with his or her participation in a ~~substance abuse treatment program~~
3 project that meets the requirements of s. 165.95 (3), as determined by the
4 department of justice ~~under s. 165.95 (9) and (10)~~.

5 **SECTION 47.** 950.04 (1v) (g) of the statutes is amended to read:

6 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
7 hearings or court proceedings, as provided under ss. ~~165.95 (3) (ae) 2. b.,~~ 302.113 (9g)
8 (g) 2., 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).

NOTE: SECTION 47 requires victim notification if a violent offender is included in
a TAD project.

9 **SECTION 48.** 961.472 (5) (b) of the statutes is amended to read:

10 961.472 (5) (b) The person is participating in ~~a~~ an evidence-based substance
11 abuse treatment program ~~that meets the requirements of s. 165.95 (3)~~, as determined
12 by the department of justice ~~under s. 165.95 (9) and (10)~~.

13 **SECTION 49.** 967.11 of the statutes is amended to read:

14 967.11 (1) In this section, “approved substance abuse treatment program”
15 means ~~a~~ an evidence-based substance abuse treatment program ~~that meets the~~
16 ~~requirements of s. 165.95 (3)~~, as determined by the department of justice ~~under s.~~
17 ~~165.95 (9) and (10)~~.

18 (2) If a county establishes an approved ~~substance abuse~~ evidence-based
19 treatment program and the program authorizes the use of surveillance and
20 monitoring technology or day reporting programs, a court or a district attorney may
21 require a person participating in an approved ~~substance abuse~~ evidence-based
22 treatment program to submit to surveillance and monitoring technology or a day
23 reporting program as a condition of participation.

ASSEMBLY BILL 52**SECTION 49**

NOTE: SECTIONS 48, 49, and 52 change references in various statutes from “substance abuse treatment program” to “evidence-based treatment program.”

1 **SECTION 50.** 973.09 (1) (d) and (4) (a) of the statutes are amended to read:

2 973.09 (1) (d) If a person is convicted of an offense that provides a mandatory
3 or presumptive minimum period of one year or less of imprisonment, a court may
4 place the person on probation under par. (a) if the court requires, as a condition of
5 probation, that the person be confined under sub. (4) or be placed in detention under
6 sub. (4g), or both, for at least that mandatory or presumptive minimum period. The
7 person is eligible to earn good time credit calculated under s. 302.43 regarding the
8 period of confinement or detention.

9 (4) (a) The court may also require as a condition of probation that the
10 probationer be confined under this subsection or under sub. (4g), or both, during such
11 period of the term of probation as the court prescribes, but not to exceed one year.
12 The court may grant the privilege of leaving the county jail, Huber facility, work
13 camp, or tribal jail during the hours or periods of employment or other activity under
14 s. 303.08 (1) while confined under this subsection. The court may specify the
15 necessary and reasonable hours or periods during which the probationer may leave
16 the jail, Huber facility, work camp, or tribal jail or the court may delegate that
17 authority to the sheriff. In those counties without a Huber facility under s. 303.09,
18 a work camp under s. 303.10, or an agreement under s. 302.445, the probationer shall
19 be confined in the county jail. In those counties with a Huber facility under s. 303.09,
20 the sheriff shall determine whether confinement under this subsection is to be in that
21 facility or in the county jail. In those counties with a work camp under s. 303.10, the
22 sheriff shall determine whether confinement is to be in the work camp or the county
23 jail. The sheriff may transfer persons confined under this subsection between a

ASSEMBLY BILL 52

1 Huber facility or a work camp and the county jail. In those counties with an
2 agreement under s. 302.445, the sheriff shall determine whether a person who is
3 confined under this subsection but who is not subject to an order under par. (b) is to
4 be confined in the tribal jail or the county jail, unless otherwise provided under the
5 agreement. In those counties, the sheriff may transfer persons confined under this
6 subsection between a tribal jail and a county jail, unless otherwise provided under
7 the agreement.

8 **SECTION 51.** 973.09 (4g) of the statutes is created to read:

9 973.09 (4g) A court may also require, as a condition of probation, that the
10 probationer be placed in detention at the probationer's place of residence or other
11 place designated by the court as a condition of probation during such period of the
12 term of probation as the court prescribes, but not to exceed one year. Detention under
13 this subsection may be imposed only if agreed to by the probationer. Detention under
14 this subsection shall be monitored by the use of an electronic device worn
15 continuously on the probationer's person and capable of providing positive
16 identification of the wearer at the detention location at any time. The court shall
17 ensure that the probationer is provided a written statement of the terms of the
18 condition detention under this subsection, including a description of the detention
19 monitoring procedures and requirements and of any applicable liability issues. The
20 terms of the condition of probation of home detention may include a requirement that
21 the probationer pay a daily fee to cover the costs associated with monitoring him or
22 her. In that case, the terms must specify to whom the payments are made.

23 (b) If the probationer fails to comply with the terms of the condition of detention
24 under par. (a), the court may order the probationer brought before the court and the

ASSEMBLY BILL 52**SECTION 51**

1 court may order that the remainder of the detention, or portion thereof, be served in
2 confinement under par. (a).

NOTE: SECTIONS 50 and 51 provides express authority for a court to order that a probationer, including a probationer who is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment, be confined in jail, placed in detention at the probationer's place of residence or other place designated by the court, or both, as a condition of probation during such period of the term of probation as the court prescribes, but not to exceed one year.

3 **SECTION 52.** 973.155 (1m) of the statutes is amended to read:

4 973.155 (1m) A convicted offender shall be given credit toward the service of
5 his or her sentence for all days spent in custody as part of a ~~substance abuse~~
6 ~~treatment program~~ project that meets the requirements of s. 165.95 (3), as
7 determined by the department of justice under s. 165.95 (9) and (10), for any offense
8 arising out of the course of conduct that led to the person's placement in that
9 program.

10 **SECTION 53. Nonstatutory provisions.**

11 (1) CRIMINAL JUSTICE COORDINATING COUNCIL. The authorized FTE positions for
12 the department of justice are increased by 1.0 GPR position on the effective date of
13 this subsection, to be funded from the appropriation under section 20.455 (3) (a) of
14 the statutes, for the purpose of performing services for the criminal justice
15 coordinating council.

16 **SECTION 54. Fiscal changes; Supreme Court.**

17 (1) STATEWIDE TREATMENT COURT COORDINATOR. In the schedule under section
18 20.005 (3) of the statutes for the appropriation to the supreme court under section
19 20.680 (2) (a) of the statutes, the dollar amount is increased by \$84,453 for each fiscal
20 year of the fiscal biennium in which this subsection takes effect to increase the
21 authorized FTE positions for the director of state courts office by 1.0 GPR position

ASSEMBLY BILL 52

1 for the purpose of providing assistance, information, and coordination to treatment
2 courts throughout the state of Wisconsin.

3 **SECTION 55. Initial applicability.**

4 (1) TREATMENT ALTERNATIVES AND DIVERSIONS. The treatment of sections 165.95
5 and 165.955 of the statutes first applies to grants awarded on January 1, 2015.

6 (2) HOME DETENTION. The treatment of sections 973.09 (1) (d), (4) (a), and (4g)
7 of the statutes first applies to offenses committed on the effective date of this
8 subsection.

9 (END)