

JAIL DIVERSION FUND AND GRANT PROGRAMS FOR LOCAL UNITS OF GOVERNMENT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 637 (S-1) as passed by the Senate
Sponsor: Sen. Stephanie Chang

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 638 (S-1) as passed by the Senate
Sponsor: Sen. Rick Outman

House Committee: Health Policy
Senate Committee: Health and Human Services
Complete to 11-13-21

(Enacted as Public Acts 162 and 163 of 2021)

SUMMARY:

Senate Bills 637 and 638 would provide that, subject to appropriation to the Jail Diversion Fund created in SB 638, the Department of Health and Human Services (DHHS) would have to create two grant programs with competitive grants to assist local units of government, using half of the appropriated funds for each program.

Senate Bill 637 would create the *community crisis response* grant program, in accordance with the recommendations of the Mental Health Diversion Council. DHHS would have to distribute grants to local units to establish or expand community-based mobile crisis intervention services, giving priority to applications that demonstrate a commitment to best practices as identified by DHHS in coordination with the council.

Community crisis response would mean a program in which appropriate calls to existing 9-1-1 dispatch centers and other existing crisis lines, including the Michigan Crisis and Access Line (MiCAL)¹ and 988 systems as those systems are implemented in Michigan, are responded to by one 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 (SUD), social, health, or other services and supports as needed.

Senate Bill 638 would create the *behavioral health jail diversion grant program*, whereby DHHS would distribute grants to local units to establish or expand behavioral health jail diversion programs in coordination between community agencies and law enforcement agencies, giving priority to local units in counties without an urbanized area of at least 50,000 people and to programs that adhere to best practices as identified by the council.

Behavioral health jail diversion grant program would mean 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 it, pre-arrest or post-arrest and before jail incarceration or conviction.

¹ <https://mcal-prod.force.com/mical/s/>

The bill would create the Jail Diversion Fund within the state treasury. The state treasurer could receive money or other assets from any source for deposit into the fund, would have to direct the investment of the fund, and would have to credit to the fund interest and earnings from fund investments. Money in the fund at the end of the fiscal year would remain in the fund and could not lapse into the general fund. The Department of Treasury would be the administrator of the fund for auditing purposes. Treasury would have to expend money from the fund, upon appropriation, to make grant distributions as provided in the bills, to contract with an independent organization to evaluate grant recipients, and to pay the reasonable expenses of staff services to administer and enforce the statutory requirements of the grant fund.

Both bills would have largely the same provisions, as described below.

Provisions for local units of government

Any applicable local unit of government could apply for the grants, and grants would have to be distributed to local units using a prospective payment methodology. Each local unit receiving a grant would have to provide DHHS with a copy of a memorandum of understanding between the involved community agencies and law enforcement agencies that delineates coordination between the two.

Annually, recipient local units would have to cooperate with an organization selected by DHHS to describe and evaluate the activities and results of the local unit related to the grant. (DHHS could use a portion of grant funding appropriated to the Jail Diversion Fund to contract with an independent organization to fulfill this requirement.)

Grant report

DHHS or the evaluating organization would have to determine the specific metrics required in the report and notify the local units when the grant is first disbursed. SB 637 provides that metrics for its report could include the number of behavioral health calls in the target jurisdiction, the number of calls to which someone was dispatched, and demographics of the individuals served, among other options.

Requirements for DHHS

DHHS would have to create an application process with selection criteria for the grants and a grant dispersal process and would have to post this information on its website.

DHHS also would have to seek federal authority to utilize enhanced federal Medicaid matching funds for operating these programs as long as that funding is available.

Additionally, both bills would require DHHS to do all of the following:

- Create the community crisis response grant program, review grant applications, and distribute grants.
- Coordinate with the council to determine appropriate staffing and resource allocation for grant review, administration, and other duties.
- Manage external evaluation and ensure that metrics are collected by grant recipients in order to determine future best practices and criteria for future grants.
- Provide technical assistance and coordination and facilitate sharing of best practices among grant recipients.

In addition, SB 637 would require DHHS to develop a model memorandum of understanding between community agencies and law enforcement and to assist with cross training resources between law enforcement and community crisis responder peers. SB 638 would require DHHS to determine the appropriate staffing and resource allocation for grant review, administration, and other duties.

DHHS report

By September 30, 2023, and annually thereafter, DHHS would have to compile and submit an annual report for each program to the House and Senate Appropriations subcommittees on the DHHS budget, the House and Senate fiscal agencies, the House and Senate policy offices, and the State Budget Office and publish the reports on its website. The reports would have to include all of the following for the previous fiscal year:

- The name of each local unit that received a grant and the total amount of the grant.
- Details about any subgrants disbursed by each local unit that received a grant.
- An analysis of the activities undertaken by grant recipients as part of their project, including alignment with best practices.
- An appropriate summary of metrics reported by grant recipients.
- Recommendations for improvements to grant criteria. (Only required for SB 637.)

Proposed MCL 330.207e and 330.207f (Senate Bill 637)

Proposed MCL 330.207c and 330.207d (Senate Bill 638)

The bills are tie-barred together, which means that neither could take effect unless both were enacted.

FISCAL IMPACT:

The fiscal impact of these bills would depend on the amount of funds the legislature makes available for deposit into the Jail Diversion Fund that would be created within the Department of Treasury through the annual appropriations process, as the fund has no revenue source otherwise. The current FY 2021-22 DHHS budget includes \$5.0 million GF/GP for DHHS to create a Jail Diversion Fund in section 1961, which includes very similar if not identical granting provisions.

Legislative Analyst: Jenny McInerney

Fiscal Analyst: Kevin Koorstra

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.