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Senate Bills 637 and 638 (as enacted)  
Sponsor: Senator Stephanie Chang (S.B. 637)  
Senator Rick Outman (S.B. 638)  
Senate Committee: Health Policy and Human Services  
House Committee: Health Policy

**PUBLIC ACTS 162 & 163 of 2021**

Date Completed: 1-5-23

**CONTENT**

**Senate Bill 638 amended the Mental Health Code to do the following:**

- Create the "Jail Diversion Fund" and require the Department of Health and Human Services (DHHS) to spend money from the Fund, upon appropriation, for certain prescribed purposes.
- Require the DHHS to create a behavioral health jail diversion grant program, subject to appropriation to the Jail Diversion Fund.
- Require the DHHS to 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, and require the Department to give priority to local units in counties without an urbanized area of at least 50,000 people and to programs that adhere to certain best practices.
- Require the DHHS to create an application process with selection criteria for grants and a grant dispersal process, and require the Department to post the application process, selection criteria, and grant dispersal process on its website.
- Require a local unit of government that receives a grant to annually cooperate with an organization, selected by the DHHS, to describe and evaluate the activities and results of the local unit of government related to the grant dollars disbursed.
- Require the DHHS to compile and submit an annual report to the Michigan Senate and House of Representatives Appropriations subcommittees on the DHHS budget, the Senate and House Fiscal Agencies, the Senate and House policy offices, and the State Budget Office.

**Senate Bill 637 amended the Code to do the following:**

- Require the DHHS to create a community crisis response grant program, subject to appropriation to the Jail Diversion Fund.
- Require the DHHS to distribute grants to local units of government for the purpose of establishing or expanding community-based mobile crisis intervention services and give priority to grant applications that demonstrated a commitment to certain best practices.
- Require the DHHS to create an application process with selection criteria for grants and a grant dispersal process, and require the Department to post the application process, selection criteria, and grant dispersal process on its website.

- **Require a local unit of government that receives a grant to annually cooperate with an organization, selected by the DHHS, to describe and evaluate the activities and results of the local unit of government related to the grant.**
- **Require the DHHS or evaluating organization to determine the specific metrics required in the report and notify the local units of government at the time of the first grant disbursement.**
- **Prescribe the duties of the DHHS.**
- **Require the DHHS to compile and submit an annual report to the Michigan Senate and House of Representatives Appropriations subcommittees on the DHHS budget, the Senate and House Fiscal Agencies, the Senate and House policy offices, and the State Budget Office.**

The bills took effect on December 27, 2021.

### **Senate Bill 638**

#### Jail Diversion Fund

The bill creates the Jail Diversion Fund within the State Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund. The State Treasurer must direct the investment of the Fund and credit to it interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year must remain in the Fund and may not lapse to the General Fund. The Department of Treasury is the administrator of the Jail Diversion Fund for auditing purposes.

The DHHS must spend money from the Fund, upon appropriation, for the following purposes:

- Making grant distributions as provided in Sections 207d and 207f (which the bills added).
- Contracting with an independent organization to evaluate grant recipients.
- Paying the reasonable expenses of staff services to administer and enforce the statutory requirements of the grant fund.

#### Behavioral Health Jail Diversion Grant Program

The bill added Section 207d to the Code to require the DHHS, subject to appropriation to the Jail Diversion Fund under Section 207c, to create a behavioral health jail diversion grant program, using half of appropriated funds, to provide competitive grants to assist local units of government that applied according to the criteria outlined below. "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. "Behavioral health disorder" means a mental illness or substance use disorder, whether or not the mental illness or substance use disorder has been formally diagnosed, a developmental disability, or an intellectual disability. "Local unit of government" means a city, village, township, or county or a delegate of a city, village, township, or county for the purpose of grant application and implementation.

The Department must 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. "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 agency.

The Department must give priority to local units of government 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. "Council" means the Mental Health Diversion Council established under the DHHS or another council or body as determined appropriate by the Department.

Grant applications may be made by any applicable local unit of government and must be distributed to local units using a prospective payment methodology.

Each local unit of government receiving a grant must provide to the DHHS a copy of a memorandum of understanding between the involved community agencies and law enforcement agencies that delineates how the agencies will be coordinated.

The Department must create an application process with selection criteria for grants and a grant dispersal process. The Department must post the application process, selection criteria, and grant dispersal process on its website.

The Department must seek Federal authority as outlined under Section 9813 of the Federal American Rescue Plan Act of 2021 to use enhanced Federal Medicaid matching funds for the operation of eligible programs receiving grants as long as that funding is available. (Section 9813 generally provides Federal funding for mental health mobile crisis teams.)

Each year, a local unit of government that receives a grant must cooperate with an organization, selected by the DHHS, to describe and evaluate the activities and results of the local unit of government related to grant dollars disbursed under Section 207d. The Department may use a portion of funding appropriated to the Jail Diversion Fund to contract with an independent organization to fulfill this requirement.

The Department or evaluating organization must determine the specific metrics required in the report and notify the local units of government at the time of the first grant disbursement.

#### Department Responsibilities

The bill requires the DHHS to do all of the following:

- Create the behavioral health jail diversion grant program, review grant applications, and distribute grants.
- Determine appropriate staffing and resource allocation for grant review, administration, and other duties.
- 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 program results and inform best practices.
- Provide technical assistance and coordination and facilitate sharing of best practices among grant recipients.

#### Report

Under the bill, by September 30, 2023, and annually after that, the Department must compile and submit a report to the Senate and House Appropriations subcommittees on the DHHS budget, the Senate and House Fiscal Agencies, the Senate and House policy offices, and the State Budget Office, and publish a copy of the report on its internet website. The report must contain all of the following for the immediately preceding fiscal year:

- The name of each local unit of government that received a grant and the total amount of the grant.
- Details about any subgrant disbursed by each local unit of government that received a grant.
- An analysis of the activities undertaken by grant recipients as part of their project.
- An appropriate summary of metrics reported by grant recipients.

### **Senate Bill 637**

#### Definitions

"Community crisis response" means 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 and 988 systems as those systems are implemented in the State, 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, social, health, or other services and supports as needed. "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. "Community crisis responder clinician" means a behavioral health practitioner specifically trained in community crisis response. "Behavioral health practitioner" means either a mental health professional or a professional trained in substance use disorder treatment and rehabilitation services.

"Council" means the Mental Health Diversion Council established under the Department or another council or body as determined appropriate by the Department.

"Local unit of government" means a city, village, township, or county or a delegate of a city, village, township, or county, for the purpose of grant application and implementation.

#### Community Crisis Response Grant Program

The bill added Section 207f to the Code. Under Section 207f, subject to appropriation to the Jail Diversion Fund, the DHHS must create a community crisis response grant program, in accordance with the recommendations of the Council, using half of appropriated funds, to provide competitive grants to assist local units of government that apply according to the criteria below.

The Department must 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 must give priority to grant applications that demonstrate a commitment to best practices as identified by the DHHS in coordination with the Council.

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

Each local unit of government receiving a grant 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 must be coordinated. "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 agency.

The Department must create an application process with selection criteria for grants and a grant dispersal process, and must post the application process, selection criteria, and grant dispersal process on its website.

The Department must seek Federal authority as outlined under Section 9813 of the American Rescue Plan Act of 2021 to use enhanced Federal Medicaid matching funds for operating the programs described in Section 207f as long as that funding is available.

Each year, a local unit of government that receives a grant must cooperate with an organization, selected by the DHHS, 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.

The Department or evaluating organization must 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 the following:

- Total number of behavioral health crisis calls in the target jurisdiction.
- 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.
- Number of calls transferred to telehealth with physical response follow-up and the number of calls transferred to telehealth without physical response follow-up.
- Community crisis responder clinician and community crisis responder peer call time per call.
- A survey of clients served by community crisis response.
- Number of individuals served by community crisis response broken down by age, gender, race, and ethnicity.
- Reduction in frequency of law enforcement interaction with known frequently served individuals.
- Number of follow-up visits, including method and location.
- Overall program costs broken down by administration, training, community crisis responder clinician and community crisis responder peer, and per call costs.

"Telehealth" means that term as defined in Section 16283 of the Public Health Code: the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Under Section 16283, telehealth may include telemedicine.

The metrics also may include the number of calls with community crisis response that result in the following:

- Jail admission.
- On-location de-escalation.
- Access to crisis stabilization services and other community-based supports and service.
- Inpatient admission to a behavioral health facility.
- Referral for behavioral or mental health services without residential or inpatient admission.
- Referral to community or social services, including homeless shelters, women's shelters, food pantries, or other similar services.

## Department Responsibilities

The bill requires the 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.
- Develop a model memorandum of understanding between community agencies and law enforcement.
- 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.
- Assist with cross-training resources between law enforcement and community crisis responder clinicians and community crisis responder peers.

## Report

Under the bill, by September 30, 2023, and annually after that, the Department must compile and submit a report to the Senate and House Appropriations subcommittees on the DHHS budget, the Senate and House Fiscal Agencies, the Senate and House policy offices, and the State Budget Office, and publish a copy of the report on its website. The report must contain all of the following for the immediately preceding fiscal year:

- The name of each local unit of government that received a grant and the total amount of the grant.
- Details about any subgrants disbursed by each local unit of government 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.

MCL 330.1207e & 330.1207f (S.B. 637)  
330.1207c & 330.1207d (S.B. 638)

Legislative Analyst: Stephen P. Jackson

## **FISCAL IMPACT**

The enacted fiscal year 2021-22 DHHS budget included \$5.0 million for the Jail Diversion Fund referenced in the bills. Senate Bill 637 requires the DHHS to use half of the jail diversion funding to provide competitive grants to local units of government for community crisis response. Senate Bill 638 requires the DHHS to use the other half of the funding to provide competitive grants to local units of government for jail diversion. The bills will result in marginal administrative costs for the DHHS and for local units that seek the funding.

Additionally, Senate Bill 638 will have a minor fiscal impact on the Department of Treasury to administer the Jail Diversion Fund; the amount needed will be within current appropriations.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.