



**Legislative
Council Staff**

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FISCAL NOTE

Drafting Number: LLS 20-0294
Prime Sponsors:

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Bill Status: Bill Request
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Bill Topic: **SUBSTANCE USE DISORDER TREATMENT IN CRIMINAL JUSTICE SYSTEM**

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill makes several changes to state law concerning substance use disorder treatment and the criminal justice system. This bill increases state and local government expenditures and workload on an ongoing basis.

Appropriation Summary: For FY 2020-21, this bill requires appropriation totaling \$3,250,715 to the Department of Human Services and the Department of Corrections.

Fiscal Note Status: The fiscal note reflects the bill draft requested by the Opioid and Other Substance Use Disorders Study Committee.

**Table 1
State Fiscal Impacts Under Bill 3**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Fund	\$3,250,715	\$5,446,722
	Centrally Appropriated	\$33,306	\$40,954
	Total	\$3,284,021	\$5,487,676
	Total FTE	2.0 FTE	2.5 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

This bill makes several changes to state law concerning substance use disorder treatment and the criminal justice system, as discussed below.

Provide opioid agonist and antagonist in jails and prisons. This bill requires the Department of Corrections (DOC), private contract prisons, local jails, multijurisdictional jails, municipal jails, and the Department of Human Services (DHS) facilities to make available at least one opioid agonist and one opioid antagonist to a person in custody with an opioid use disorder throughout the duration of the person's incarceration or commitment. Further, DOC and local jails are required to ensure that a person who is treated for a substance use disorder while incarcerated is provided with continuity of care prior to release.

Safe stations. This bill creates safe stations that allow a person to dispose of any controlled substances and request assistance in finding access to treatment for a substance use disorder. Under this bill, a safe station is any municipal police station, county sheriff's office, or municipal, county, or fire protection district fire station. Safe stations are responsible for the disposal of controlled substances and are required to facilitate transport to a medical facility if the person appears in need of immediate medical attention.

Information resources for inmates. This bill requires the executive director of the DOC to consult with the Offices of Behavioral Health and Economic Security in the DHS, the Department of Health Care Policy and Financing (HCPF), the Department of Local Affairs (DOLA), and local service providers to develop resources for inmates post-release that provide information to help prepare inmates for release and reintegration into their communities.

Criminal record sealing. If a person has entered into or successfully completed a substance use disorder treatment program in the case that is the subject of the petition to seal, this bill requires the courts to consider this factor favorably in determining whether to grant the petition to seal.

Program funding expansion. This bill includes the following General Fund appropriations to the Office of Behavioral Health (OBH) in DHS:

- \$3,450,000 to increase the number of Law Enforcement Assisted Diversion (LEAD) pilot programs; and
- \$1,963,832 to increase the number of Co-Responder Programs.

Background and Assumptions

LEAD is a pre-booking diversion program that connects a defendant with a case manager instead of the defendant being charged and booked following an arrest. The defendant is presented with a harm reduction-based approach to connect them with substance use treatment and other services. Based on current programs implemented by the DHS, the cost of a LEAD program site is established at \$575,000. The Co-Responder Program provides funding to local governments for a behavioral health specialist and law enforcement officer team that respond to mental health related calls and de-escalate situations. The cost of a Co-Responder Program is \$362,500 per team. The fiscal note assumes that the included appropriation in the bill will result in approximately six new LEAD programs and five new co-responder program teams.

State Expenditures

This bill will increase state General Fund expenditures by \$3.3 million and 2.0 FTE in FY 2020-21 and \$5.5 million and 2.5 FTE in FY 2021-22 and future years. These costs are shown in Table 2 and discussed below.

**Table 2
 Expenditures Under Bill 3**

	FY 2020-21	FY 2021-22
Department of Human Services		
Personal Services	\$98,880	\$118,656
Operating Expenses	\$1,890	\$2,025
Capital Outlay Costs	\$6,200	-
Travel	\$780	\$780
LEAD Program	\$1,725,000	\$3,450,000
Co-Responder Program	\$1,359,375	\$1,812,500
Centrally Appropriated Costs*	\$20,612	\$25,317
FTE – Personal Services	1.2 FTE	1.5 FTE
DHS Subtotal	\$3,212,737	\$5,409,278
Department of Corrections		
Personal Services	\$51,175	\$61,411
Operating Expenses	\$1,215	\$1,350
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs*	\$12,694	\$15,637
FTE – Personal Services	0.8 FTE	1.0 FTE
DOC Subtotal	\$71,284	\$78,398
Total Cost	\$3,284,021	\$5,487,676
Total FTE	2.0 FTE	2.5 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Human Services. This bill increases expenditures in DHS by \$3.2 million in FY 2020-21 and \$5.4 million in FY 2021-22 to expand the LEAD and Co-Responder programs. In addition, the DHS requires 1.5 FTE to provide technical assistance, training, and administration oversight for the additional diversion programs. DHS also requires \$780 per year for travel to provide technical assistance. It is assumed that staff will be hired in August 2020, the new Co-Responder Program sites will begin operating on October 1, 2020, and the new LEAD sites will begin operating on January 1, 2021. First-year costs have been prorated to reflect these start dates and the General Fund paydate shift.

Department of Corrections. This bill increases expenditures in the DOC by \$58,590 and 0.8 FTE in FY 2020-21 and \$62,761 and 1.0 FTE in FY 2021-22 and future years. DOC requires a social worker to provide continuity of care to inmates, including scheduling appointments with the offender's behavioral health provider, providing post-release resources, and developing a MAT plan upon release. First-year costs include the General Fund paydate shift.

Judicial Department. This bill adds a factor for courts to consider when defendants request their criminal cases be sealed. The Judicial Department will need to amend forms to allow for a person to indicate whether they have entered into or successfully completed a substance use disorder treatment program in the case that is the subject of the petition to seal. This impact is expected to be minimal and can be accomplished within existing resources.

Department of Local Affairs and the Department of Health Care Policy and Financing. There will be an increase in workload for DOLA and HCPF to work with the DOC to develop post-release resources for inmates. This impact is expected to be minimal and can be accomplished within existing resources.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$33,306 in FY 2020-21 and \$40,954 in FY 2021-22.

Local Government

Beginning in FY 2020-21, this bill will increase local government costs and workload in several ways, as described below. The exact impact to a particular local government will vary.

Provide opioid agonist and antagonist in jails. There will be an increase in costs to jails to make available at least one opioid agonist and one opioid antagonist to a person in custody with an opioid use disorder throughout the duration of the person's incarceration. Costs and workload will also increase to ensure continuity of care is provided for inmates who are treated for substance use disorder while incarcerated. These costs will vary by local jurisdiction depending on their jail population and current treatment practices.

Safe stations. Municipal police stations, county sheriff's offices, and municipal, county, and fire protection district fire stations will have increased costs and workload to operate as a safe station. These impacts include disposing of controlled substances, which are currently transported out of state to be destroyed, assisting individuals in finding access to treatment for a substance use disorder, and facilitating transport to a medical facility if necessary.

Criminal justice diversion programs. Certain local governments, including municipalities, counties, and district attorneys, will have additional costs and workload to participate in the expanded criminal justice diversion programs under the bill. It is assumed that costs for participating local governments will be offset by LEAD program funding provided by the state. Some costs may be reduced if offenders are diverted from jail or the criminal justice system altogether. Local government participation is voluntary.

Technical Note

As described in the state expenditures section, the fiscal note assumes a January 2021 implementation date for the LEAD program and an October 2020 implementation date for the Co-Responder Program in the first year. The included appropriations in the bill do not reflect this timeline and thus the required appropriations for FY 2020-21 in the fiscal note are less than the included appropriations.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2020-21, this bill includes the following appropriations totaling \$5,413,832 to the DHS:

- \$3,450,000 from the General Fund for LEAD Programs; and
- \$1,963,832 from the General Fund for Co-Responder Programs.

For FY 2020-21, the bill requires the following appropriations totaling \$3,250,715 to the DHS and the DOC as follows:

- \$58,590 from the General Fund to the DOC and an allocation of 0.8 FTE; and
- \$3,212,737 from the General Fund and an allocation of 1.2 FTE to the DHS for diversion programs. (As described in the Technical Note section, this appropriation is less than the \$5,413,832 million appropriation currently included in the bill because the fiscal note assumes a January 2021 implementation date for the LEAD program and an October 2020 implementation date for the Co-Responder program in the first year. Starting in the second year, the fiscal note estimate includes the \$3,450,000 and \$1,963,832 amounts to reflect the program's intended costs when fully implemented.)

State and Local Government Contacts

Corrections	Counties	Fire Chiefs
Health Care Policy And Financing	Human Services	Information Technology
Judicial	Law	Local Affairs
Municipalities	Sheriffs	Special Districts

