



# Board of Commissioners of Cook County

118 North Clark Street  
Chicago, IL

## Legislation Text

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File #: 13-1798, Version: 2

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**PROPOSED SUBSTITUTE TO ITEM 13-1798**  
(Changes in bold with strikeouts and underlined)

### **COOK COUNTY JAIL DIVERSION PROGRAM FOR MENTALLY ILL AND/OR SUBSTANCE ABUSE DETAINEES OR ARRESTEES**

**BE IT ORDAINED**, by the Cook County Board of Commissioners, that Chapter 46, Law Enforcement, Article IV, Jail Diversion Program, Section 36-172, Sec. 46-201 through Section 46-217, of the Cook County Code are hereby amended as follows:

**~~Sec. 46-172. Definitions.~~**

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Appropriate authorities.* The Circuit Court of Cook County, the State's Attorney of Cook County, the Sheriff of Cook County, the Public Defender of Cook County, and local law enforcement.~~

~~*Case management.* The process of assisting and monitoring target population detainees in achieving their individualized treatment plan consistent with their diversion plans.~~

~~*Class 4 felony.* An offense for which a sentence to a term of imprisonment of one to three years in a penitentiary and/or a fine of up to \$25,000.00 or the amount specified in the offense, whichever is greater, may be imposed. (730 ILCS 5/5-8-1 and 730 ILCS 5/5-9-1)~~

~~*Community-based mental health service providers.* Mental health service providers working within local organization and health facilities.~~

~~*Co-occurring substance abuse disorder.* Mentally ill detainees with addictions to alcohol, drugs and/or other chemical substances (M.I.S.A.).~~

~~*Crisis intervention.* To safely intervene with people in crisis in order to stabilize a crisis situation while minimizing the risk of harm to the individual and all persons involved.~~

~~*Diversion.* A program that diverts target population detainees from jail in accordance with standardized procedures established by the Advisory Board in conjunction with the appropriate authorities, the detainee and/or their legal representative.~~

~~*Diversion plan.* An individualized community based treatment and supportive service plan as an alternative to incarceration with a focus on minimizing repeat unlawful conduct.~~

~~*Diverted detainee.* A target population detainee who is approved by the appropriate authorities for diversion.~~

~~*Felony.* An offense for which a sentence to death or to a term of imprisonment in a penitentiary for one~~

~~year or more is provided. (720 ILCS 5/2-7)~~

~~**Mental health assessment.** An examination by a licensed mental health service provider and, if applicable, by a substance abuse service provider.~~

~~**Mental health service providers.** Mental health service provider with expertise in providing comprehensive psychological, emotional and/or psychiatric services, in accordance with the Illinois Mental Health and Developmental Disabilities Code, 405 ILCS 5/1 et seq., and consistent with standards adopted by recognized professional mental health service provider associations including the Illinois Psychological Association.~~

~~**Mentally ill.** Persons who have been clinically diagnosed with a mental illness including persons with co-occurring substance abuse disorder.~~

~~**Misdemeanor.** Any offense for which a sentence to a term of imprisonment, other than to a penitentiary, for less than one year may be imposed (720 ILCS 5/2-11):~~

- ~~(1) **Class A.** An offense for which a sentence to a term of imprisonment, other than in a penitentiary, of up to one year and/or a fine of up to \$25,000.00 or the amount specified in the offense, whichever is greater, may be imposed. (730 ILCS 5/5-9-1 and 730 ILCS 5/5-8-3)~~
- ~~(2) **Class B.** An offense for which a sentence to a term of imprisonment, other than in a penitentiary, of up to six months and/or a fine of up to \$1,500.00 or the amount specified in the offense, whichever is greater, may be imposed. (730 ILCS 5/5-9-1 and 730 ILCS 5/5-8-3)~~
- ~~(3) **Class C.** An offense for which a sentence to a term of imprisonment, other than in a penitentiary, of up to 30 days and/or a fine of up to \$1,500.00 or the amount specified in the offense, whichever is greater, may be imposed. (730 ILCS 5/5-9-1 and 730 ILCS 5/5-8-3)~~

~~**Post-booking diversion.** Diversion agreed to by the State's Attorney's Office after the arrest of a detainee as an alternative to prosecution.~~

~~**Pre-booking diversion.** Diversion agreed to by local law enforcement authorities prior to any formal charges being filed against a detainee.~~

~~**Provider.** A mental health service provider or a substance abuse service provider.~~

~~**Special Court.** Cook County Mental Health Court.~~

~~**Substance Abuse.** A pattern of harmful use of alcohol or drug use for mood altering purposes.~~

~~**Substance abuse service providers.** Individuals in local organizations and health facilities with expertise in providing comprehensive assessments and treatment services in accordance with the Alcoholism and Other Drug Abuse and Dependency Act, 20 ILCS 301/1 et seq., as administered by the Illinois Department of Human Services, formerly known as the Illinois Department of Alcoholism and Substance Abuse.~~

~~**Target population detainees.** People with mental illness and/or substance abuse, including those with co-occurring substance abuse disorder, with a primary focus on offenders within the jurisdiction of agreed upon police districts within the City of Chicago and the Village of Maywood, the jurisdiction of the Juvenile Court and misdemeanor courts of the District 4, Maywood Courthouse of the Circuit Court of the County and the jurisdiction of the Mental Health Court located at the Criminal Court Building in the City of Chicago.~~

~~**Third party health coverage.** Health coverage provided by a public or private reimbursement program including but not limited to 1115 Waiver, Medicaid or Medicare.~~

Sec. 46-201. Purpose.

The purposes of the County Jail Diversion Program are to:

- (1) Improve public safety and reduce overcrowding at the County jail by establishing partnerships and cooperative working relationships with between state, federal and local units of government and community based service providers for the housing, and treatment and case management of the mentally ill population mentally ill and/or substance abuse detainees or arrestees in the Cook County.
- (2) Provide mentally ill and/or substance abuse offenders detainees or arrestees with improved quality and access to the appropriate assessment and treatment services.
- (3) Reduce rates of recidivism among mentally ill and/or substance abuse detainees or arrestees offenders.
- (4) Reduce the jail population in the County.
- (54) Assist in maintaining compliance with the Federal consent decree on jail overcrowding.
- (65) Afford equal access to all people, without regard to race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, housing, or any other protected categoryies established by law, to alternatives to incarceration.
- (76) Improve positive relationships between target population citizens and law enforcement officers.
- (87) Ease the financial burden on County taxpayers for the cost of treatment for the aforementioned population in the County correctional system.

**Sec. 46-202. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Crisis Intervention means to safely intervene with people in crisis in order to stabilize a crisis situation while minimizing the risk of harm to the individual and all persons involved.

Mental Health Service Provider means Mental Health Service Providers with expertise in providing comprehensive psychological, emotional and/or psychiatric services, in accordance with the Illinois Mental Health and Developmental Disabilities Code, 405 ILCS 5/1 et seq., and consistent with standards adopted by recognized professional mental health service provider associations including the Illinois Psychological Association.

Substance Abuse Service Providers means individuals in local organizations and health facilities with expertise in providing comprehensive assessments and treatment services in accordance with the Alcoholism and Other Drug Abuse and Dependence Act, 20 ILCS 301/1 et seq., as administered by the Illinois Department of Human Services, formerly known as the Illinois Department of Alcoholism and Substance Abuse.

Target population means persons afflicted with mental illness and/or substance abuse.

Third Party Health Coverage means health coverage provided by public or private insurance, including but not limited to 1115 Waiver, Medicaid or Medicare.

**Sec. 46-2023. Scope.**

The County Board calls upon persons responsible for the administration of the criminal justice system with the in Cook County, and the officials and community service providers responsible for mental health services in the State of

Illinois to work together to develop improved and expanded diversion programs for ~~person suffering from mentally ill and/or substance abuse detainees or arrestees, mental illness and substance abuse disorder in order to determine how such programs might be expanded to promote treatment as an alternative to incarceration on a broader scale within the County.~~ Successful jail diversion programs must incorporate:

- (1) *Assessments.* Detainees who are considered for diversion must agree to undergo an individualized mental health and physical evaluation, ~~and assessment and to accept referrals for appropriate services including housing and case management.~~ The program must be designed to reduce the number of mentally ill and/or substance abuse detainees or mentally ill and substance abuse arrestees entering into the County jail and afford greater opportunities for crisis intervention and essential supportive services.
- (2) *Provider Participating service providers standards.* ~~In addition to meeting the qualifications established by State and Federal laws for the treatment of mental health and substance abuse disorder To the extent possible, Mental Health and Substance Abuse Disorder Service Providers who participate in the jail diversion program shall be those who are already receiving funds from Federal, State, County, and/or local units of governments for Mental Health and Substance Abuse Disorder services. All County funding for such services, if any, shall be performance based and any renewal shall be contingent upon the quality and quantity of service rendered the previous years. Each participating diverted detainee or arrestee must have an individualized service plan which shall be developed by a licensed professional in the State in the field of mental health and substance abuse disorder. This plan must be in collaboration with the appropriate law enforcement officials and the criminal justice system when applicable. The treatment plan shall be consistent with the Illinois Mental Health and Developmental Disabilities Code, 405 ILCS 5/1 et seq., and in accordance with the Alcoholism and Other Drug Abuse and Dependency Act, 20 ILCS 301/1 et seq., standards adopted by recognized professional mental health and substance abuse service provider associations including the Illinois Psychological Association, and the Illinois Department of Human Services.~~
- (3) *Regional Cerisis Intervention Centers resources for law enforcement.* ~~24-hour crisis intervention resource center, equipped with social workers will be established and in each police district within the targeted areas A regional 24-hour crisis intervention resource center, operated by a lead agency, shall be established to be utilized by local law enforcement when there is no available service in the impacted area. to assist with resources for stabilizing and follow-up case management as needed. The crisis center shall assist local law enforcement, including any law enforcement crisis intervention teams, when called upon to stabilize a crisis situation involving a mentally ill and substance abuse offender. The crisis center and the crisis intervention team shall be subject to funding by the intergovernmental agreement established primarily reimbursed in accordance with provisions set forth in Division 3 of this article Sec. 46-208. There shall be established crisis intervention teams in each police district made up with social workers who qualify for direct third party reimbursement, police and community workers.~~
- (4) *Third party health care reimbursement sources.* In those cases where a diverted detainee/arrestee does not have a source of third party health coverage, the Cook County Health and Hospital System Bureau of Health Services shall make every concerted effort to assist the diverted detainee in making application for any third party health care reimbursement.

~~Sec. 46-203. –Target population–~~

~~The County's Jail Diversion Program shall focus on the following categories of detainees with a primary focus on offenders within the jurisdiction of agreed upon police districts within the City of Chicago and the Village of Maywood, the jurisdiction of the Juvenile Court and misdemeanor courts of the District 4, Maywood Courthouse of the Circuit Court of Cook County and the jurisdiction of the Mental Health Court located at the Criminal Court Building in the City of Chicago:~~

~~(1) Mentally ill detainees and substance abuse detained for Class A, B and C misdemeanors which are nonviolent.~~

~~(2) Mentally ill detainees and substance abuse detained for nonviolent Class 4 felony offenses.~~

~~Sec. 46-204. Eligibility.~~

~~For pre-booking jail diversion there is no mandatory requirement that a diverted detainee first plead guilty to an offense prior to participating in a diversion program.~~

**Sec. 46-2054. - Types of jail diversion programs.**

(a) This Jail Diversion Program is designed to strengthen existing jail diversion efforts which are currently used by some local law enforcement officials such as station adjustments, peer juries, specialty courts, and other alternatives to incarceration.

(b) This Jail Diversion Program will include four types of diversion, each of which shall be subject to the approval of the appropriate authorities and have agreed-upon conditions by all parties involved, the agreement shall be tailored to particular circumstances, for which diverted detainees/arrestees shall be held accountable. The four categories of diversion are as follows:

(1) *Pre-booking diversion.* Pre-booking jail diversion does not mandate or require that a detainee or arrestee plea guilty to an offense prior to participation in a diversion program. Pre-booking diversion may be sought by local law enforcement for mentally ill and/or substance abuse detainees or arrestees~~mentally ill detainees and substance abuse, booked for Class B and C misdemeanors,~~ as often as possible. The arresting officer shall be the first line of contact and shall be encouraged to take the following basic steps prior to any official charges for minor and/or nuisance crimes:

- a. Attempt to resolve any crisis without harm to the suspect, general public, or law enforcement officials.
- b. Refer directly to a hospital or treatment center when appropriate.
- c. Contact parent or guardian if individual with mental illness ~~mentally ill~~ and/or substance abuse detainee is under the age of 17.
- d. Evaluate the situation and determine if the suspect is potentially divertible.
- e. Determine if detainee or arrestee can be sent to his or her residence under conditions agreed upon by law enforcement, ~~detainee offender,~~ parent(s) or guardian, and the victim of the crime.
- f. Contact a community based mental health and substance abuse service provider when appropriate for proper assessment and referral for services.
- g. If ~~no~~ community based mental health ~~and/or~~ substance abuse service providers is are unavailable contact the ~~24-hour regional~~ crisis center for crisis intervention.
- h. In cases where the detainee or arrestee has caused injury to a person or damage to one's property, the appropriate authorities shall be encouraged to explore all efforts for restitution as a condition of pre-booking diversion.
- i. Complete a detailed incident report.

(2) *Post-booking diversion.* This category of diversion may be sought by the State's Attorney for mentally ill and/or substance abuse detainees/arrestees who are detained for crimes that constitute Class A misdemeanors and Class 4 felonies ~~and which are nonviolent~~. The State's Attorney may seek a pre-arraignment investigation which may include, but need not be limited to, assessment by a mental health and substance abuse service provider to determine whether the suspect is eligible for diversion. If a diversion plan is agreed upon by all parties involved, it may include a requirement that the diverted detainee adhere to an individualized treatment and service plan developed by an appropriate clinician, provision for restitution with respect to injuries or property damage caused by the diverted detainee and may identify a case manager who shall monitor the diverted detainee's compliance with the diversion plan and report on such compliance as required in the diversion plan.

(3) *Pre-trial diversion to special courts.* This level shall continue to emphasize proper assessment and speedy trials for those detainees who have been diagnosed by the appropriate clinicians as ~~being mentally ill~~ having a mental illness or ~~with~~ substance abuse disorders. If a detainee has been diagnosed as ~~being mentally ill~~ having a mental illness or diagnosed with substance abuse disorders and is held over for trial the detainee shall have immediate access to the appropriate treatment services. The case should be referred to the appropriate specialty courts for a speedy trial. This category of diversion is subject to the approval of the court.

(4) *Post-adjudication diversion.*

- a. This category of diversion is for persons adjudicated guilty of an offense by the courts. In cases where a person has also been found, by a licensed clinician, as ~~being mentally ill~~ having a mental illness and suffering with substance abuse and it has been agreed upon ~~on~~ by the courts that a diversion plan may be developed, that person shall be eligible for immediate treatment.
- b. This category of diversion consists of dispositions in the Juvenile Court and the misdemeanor courts within the jurisdiction of the ~~District 4, Maywood Courthouse of the~~ Circuit Court of Cook County ~~and the Mental Health Court~~. In appropriate cases as ordered by the court, a diversion plan may be developed as a condition of a defendant's probation or supervision. The court may consider assignment of a case manager to monitor the defendant's compliance with the diversion plan and may require notification of the arresting law enforcement agency or other parties prior to the defendant's release from custody or discharge from hospitalization for mental health or substance abuse treatment.

(c) *Resumption of prosecution.* Failure to comply with the diversion plan shall subject the diverted detainees ~~/arrestees~~ to further prosecution.

#### **Sec. 46-2065. Crisis intervention training.**

The intergovernmental agreement shall include provisions for shared resources for ~~explore funding and promotion of~~ training opportunities for law enforcement and service providers with respect to crisis intervention involving persons with mental illness and/or substance abuse, which Training shall include recognition of mental illness and substance abusers, knowledge of available local resources, and the use of less than lethal force ~~and the use of less than lethal force~~ the proper use of force, and utilization of the state's database.

#### **Sec. 46-206. Intergovernmental Agreement.**

The Cook County Board President and the Board shall request that the State's Attorney develop an Intergovernmental Agreement between Cook County Board of Commissioners, City of Chicago, State of Illinois, Cook County Sheriff, Cook County Circuit Court, and local units of government within the targeted areas. The agreements shall address the following:

- (1) The role of the State of Illinois, the County of Cook, and community 708 mental health boards in regards to funding and providing services for the target population.
- (2) The feasibility of improved service coverage for diverted detainees or arrestees through shared resources.
- (3) The creation and funding of 24-hour crisis intervention centers.
- (4) Standardized policies and procedures to ensure equal opportunity for all mentally ill and/or substance abuse detainees or arrestees to participate in a diversion program.

**Sec. 46-207. Confidentiality.**

The rules of confidentiality, as set forth under the Illinois Mental Health and Developmental Disabilities Code and Alcoholism and Other Drug Abuse and Dependency Act and other applicable State, Federal and local laws, shall be adhered to.

**Sec. 46-208. Funding.**

Mental health and substance abuse service providers participating in the Cook County Jail Diversion Program shall seek reimbursement for their service from third party reimbursement sources (i.e. 1115 Waiver, KidCare, Medicare/Medicaid, and/or private insurance entities) and when applicable may be compensated through Federal, State and local funds; subject to the appropriation and availability from State, County and local government.

**Sec. 46-209. Advisory Panel.**

The purpose of the Advisory Panel is to establish a strong advocacy and resource group to enhance Cook County's effort to improve the quality of mental health and substance abuse services in Cook County and to reduce the population of non-violent mentally ill and/or substance abuse detainees or arrestees entering the Cook County criminal justice system. The thirteen member panel shall be composed of persons with expertise in law enforcement, criminal justice, assessment and treatment of mentally illness and substance abuse disorders.

**Sec. 46-210. Structure.**

(a) thirteen-member Advisory Panel is established to report to the Board of Commissioners regarding the implementation and evaluation of the Cook County Jail Diversion Program.

(b) The Advisory Panel shall consist of thirteen (13) members as follows: (1) appointed by the Chief Judge of the Circuit Court of Cook County, (1) appointed by the Cook County Sheriff, (2) appointed by the Cook County State's Attorney, (1) appointed by the Cook County Public Defender, (2) appointed by the City of Chicago Office of the Mayor, (1) appointed by the Village of Maywood, and (5) appointed by the President of the Cook County Board of Commissioners; from among the following: (1) selected the Cook County Department of Public Health, (1) selected from University of Illinois Jane Addams School of Social Work, (1) selected from Illinois Community Mental Health Providers Association, and (2) selected from a consumer organizations with (1) representing mental health.

(c) This Advisory Panel's composition will reflect the demographics of the County as a whole, with a majority of members selected from the target areas. The Panel shall select officers from among its membership.

**Sec. 46-211. Responsibilities of Advisory Panel.**

The Advisory Panel shall:

- (1) Recommend administrative policies and procedures for implementation of the Cook County Jail Diversion Program.
- (2) Identify current local, state and federal funding resources for services to the mentally ill and/or substance abuse detainees or arrestees.
- (3) Develop a feasibility study to determine the availability of essential mental health and substance abuse services at the community level, to ensure a successful mental health diversion program for both youth and adults.
- (4) Recommend a structure for maximizing the use of existing resources and making them readily available to law enforcement crisis intervention centers.
- (5) Assist in establishing a collaborative relationship between the State of Illinois, County of Cook, local municipalities and local community based mental health and substance abuse service providers, with emphasis on mutual goals, shared responsibilities and resources.
- (6) Review existing training curriculum for law enforcement officials and make recommendations for change to enhance their ability, where needed, to identify persons with mentally illness and/or substance abuse disorder.
- (7) Establish criteria for measuring program outcomes.
- (8) Devise a plan for minimizing cost through service integration and coordination.
- (9) Lobby federal and state governments to improve funding resources for Jail Diversion Program services at the local level.
- (10) Request that the County apply for funds for support staff to the Advisory Panel.
- (11) Recommend procedures to ensure nondiscriminatory opportunities for detainees and arrestees to participate in a diversion program.

#### **Sec. 46-212. Establishment of Electronic Database**

Law Enforcement, the State's Attorney's Office, the Courts and the Probation Department are required to maintain a data base of information regarding persons who have been diverted by their respective agencies in order to improve information sharing between departments and to assist in identifying repeat offenders who may have been previously diagnosed with a mental illness and/or substance abuse.

#### **Sec. 46-213. Police Evaluations**

Law Enforcement is encouraged to include the following criteria for evaluation of police response to crises involving mentally ill and/or substance abuse offenders. Evaluations of police responses should be consistently conducted on a case-by-case basis to determine the best case practices when detaining or arresting people in crisis. Evaluation criteria should include, but not be limited to, the following:

- (1) Was there any significant violence or harm done to the subject, the general public or law enforcement officials during the process of apprehension?
- (2) Was the crisis resolved on the scene? At the police station? Or elsewhere?
- (3) Where family members alerted and included in the problem solving process in accordance with State and



Federal law, when the offender is under the age of 17?

- (4) Was the detainee transported or referred to the appropriate service provider when warranted?
- (5) Was the detainee formally incarcerated?
- (6) Did law enforcement take advantage of community-based resources and were the resources readily available as well as suitable for the situation?
- (7) Was this a repeat encounter with the detainee or arrestee within a year, six months, 90 days, or 45 days, who had participated in a diversion program?

#### **Sec. 46-214. Performance Measurement Standards**

Performance measurement standards shall include, but not limited to, the following:

- (1) Percentage of detainees or arrestees with case managers.
- (2) Total number of detainees or arrestees seen per quarter.
- (3) Number of appointments made for detainee or arrestee and percentage of those kept.
- (4) Percentage of detainees or arrestees with living arrangements.
- (5) The number of periodic follow-ups with detainee or arrestee.
- (6) Percentage of current and accurate detainee or arrestee records that are available for review by any appropriate agency.
- (7) Progress reports on arrestee's or detainee's efforts in complying with their individualized treatment plan.
- (8) Rate of recidivism.
- (9) Reduction in the jail population
- (10) Number of community-based service providers.
- (11) Percentage of detainees or arrestees in diversion programs.
- (12) Percentage of reduction in non-violent crimes.
- (13) Cost analysis
- (14) Increase stakeholder's training regarding identifying and servicing persons with mental illness and/or substance abuse.

#### **Sec. 46-215. Applicability**

As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this Ordinance conflicts with an ordinance of a municipality, the municipal's ordinance shall prevail within the municipality. This Ordinance shall be enforceable within the municipal jurisdiction to the extent permitted under the statutes and constitution of the State of Illinois and of the United States of America. Nothing in this Ordinance shall be construed to compel law enforcement

officers, the State's Attorney's Office, the Public Defender's Office, the Circuit Court of Cook County or any office or agency working with those offices in the administration of the criminal justice system to take any action which is inconsistent with the judgment and decisions of those offices or to act in a manner which is contrary to existing law. To the extent that any provision of this Ordinance requires express statutory authorization, the approval of any official or requires an agreement between the affected parties, this Ordinance shall be contingent upon such statutory authorization, approval or agreement.

**Sec. 46-216. Severability**

If any article, paragraph, sentence, or clause of this Ordinance or the application thereof to any person is for any reason deemed to be invalid or unconstitutional, such decision shall not affect any remaining portion, section, or part thereof or application of this Ordinance to any person.

**Sec. 46-217. Effective Date**

(a) This Ordinance shall take effect immediately upon its passage.

(b) Within six weeks of the passage of this Ordinance an Advisory Panel shall be appointed and approved.

(c) Within one year after the implementation of this Ordinance, the Advisory Panel shall report to the Cook County Board of Commissioners regarding the number of detainees and arrestees diverted, the cost benefits to Cook County, the effectiveness and future viability of the jail diversion program.