



# Board of Commissioners of Cook County

118 North Clark Street  
Chicago, IL

## Legislation Details (With Text)

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<b>File #:</b>	13-2011	<b>Version:</b>	1	<b>Name:</b>	Jail Diversion
<b>Type:</b>	Ordinance Amendment	<b>Status:</b>		<b>Status:</b>	Filed
<b>File created:</b>	10/21/2013	<b>In control:</b>		<b>In control:</b>	Legislation and Intergovernmental Relations Committee
<b>On agenda:</b>	10/23/2013	<b>Final action:</b>		<b>Final action:</b>	11/19/2014
<b>Title:</b>	PROPOSED ORDINANCE AMENDMENT				

### COOK COUNTY JAIL DIVERSION PROGRAM FOR ADULTS AND YOUTH

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 46, Law Enforcement, Article IV., Jail Diversion Program, Section 46-171 through Section 46-312, of the Cook County Code is hereby amended as follows:

#### DIVISION 1. GENERALLY

Sec. 46-171. Short title.

This article shall be cited and may be known as the "Cook County Jail Diversion Program for Adults and Youth."

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 or arrestees in achieving their individualized treatment plan consistent with their diversion plans.

Case manager. A person (as a social worker or nurse) who assist in the planning, coordinating, monitoring and evaluation of social services for patients with emphasis on quality of care, continuity of services and cost effectiveness.

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 or arrestee. A target population detainee or arrestee 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, and qualifies for public and private reimbursement.

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, the plaintiff and the detainee 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 or arrestee.

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, including those with co-occurring substance abuse disorder, throughout Cook County, with a primary focus on high crime areas offenders within the jurisdiction of agreed upon police districts within the City of Chicago and suburban areas. 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 Medicaid or Medicare.

Sec. 46-173. Applicability of article.

(a) As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this article conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within the municipality. This article 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.

(b) Nothing in this article shall be construed to compel law enforcement officers, the State's Attorney's Office, the Public Defender's Office, the Circuit Court of the 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 article requires express statutory authorization, the approval of any official or requires an agreement between the affected parties, this article shall be contingent upon such statutory authorization, approval or agreement.

Sec. 46-174. Implementation dates.

(a) Within six weeks of the passage of Ordinance No. 05-O-46, an Advisory Panel shall be appointed and approved.

(b) The Jail Diversion Program shall take effect six months after the creation of the Advisory Panel.

(c) The Jail Diversion Program shall run for a period of 18 months.

(d) Within one year after the implementation of this Program, the Advisory Panel shall report to the County Board regarding the number of arrestees diverted, the cost benefits to the County, the effectiveness and future viability of an expanded County wide jail diversion program.

## DIVISION 2. PROGRAM ESTABLISHED

### 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 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 category 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. - 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) ProviderParticipating 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 Ccrisis Intervention Center resources for law enforcement. A 24-hour crisis intervention resource center, equipped with social workers shall 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. 46-232. 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 people with mental illness, including those with co-occurring substance abuse disorder throughout Cook County, the following categories of detainees with a primary focus on offenders high crime areas within the jurisdiction of agreed upon police districts within the City of Chicago and suburban areas. 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 or arrestees and with substance abuse detained or arrested for Class A, B and C misdemeanors which are nonviolent.
- (2) Mentally ill detainees or arrestees and with substance abuse detained or arrested for nonviolent Class 4 felony offenses.
- (3) Who live in high crime areas, including veterans returning home with post-traumatic stress disorder.

#### 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. 46-205. - 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. 46-206. - Crisis Intervention Training.

All persons involved with working with the target population must undergo training. The An 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 the proper use of force, communication, and utilization of the state's database.

#### 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.

### DIVISION 3. PROGRAM PREREQUISITES

#### Sec. 46-231. Intergovernmental agreement; memorandum of understanding.

In order to implement the Jail Diversion Program, the County Board requests that one or more Memoranda of Understanding (MOU) or Intergovernmental Agreements be developed between the appropriate authorities including, but not limited to, the County of Cook, the State of Illinois Department of Human Services, the Circuit Court of Cook County, the State's Attorney of Cook County, the Sheriff of Cook County and participating units of local government on behalf of their respective police departments. The agreements shall address the following:

- (1) The roles of the State of Illinois, the County of Cook, and community mental health (708) boards in funding and providing services for the target population detainees in the County.
- (2) The feasibility of improved service coverage for diverted detainees through shared resources.
- (3) The establishment and funding of a 24-hour Crisis Intervention Center to assist police departments with crises involving mentally ill offenders.
- (4) Standardized policies and procedures to ensure equal opportunity for all mentally ill and substance abuse disorder population to participate in a diversion program notwithstanding their place of residence.
- (5) Establishment of agreements with universities to utilize graduate students and social workers who have fulfilled their requirements for public and private reimbursement to minimize cost to the county.

#### Sec. 46-232. Funding.

Mental health and substance abuse service providers participating in the County Jail Diversion Program shall seek reimbursement for their services from third party reimbursement sources (i.e., Kidcare, Medicare/Medicaid, and/or private insurance entities) and, where applicable, may be compensated through federal, state and local grants. Subject to the appropriation and availability of funds and to the enactment of an ordinance establishing programmatic requirements, the County shall create a revolving loan fund program to assist community based providers with cash flow problems resulting from delays in reimbursement for diverted detainees from third party reimbursement sources. Service providers shall not be eligible to apply for a revolving loan fund unless reimbursement from the third party reimbursement source is at least 45 days late.

#### DIVISION 4. ADVISORY PANEL

##### Sec. 46-256. Purpose.

- (a) The purpose of the Advisory Panel is to establish a strong advocacy and resource group to enhance the County's effort to improve the quality of mental health services for the mentally ill and substance abuse population in the County and to reduce this population in our the County jail.
- (b) The 13-member panel shall be composed of persons with expertise in law enforcement, criminal justice, assessment and treatment of the mentally ill and substance abuse population.

##### Sec. 46-257. Structure.

- (a) A 13-member Advisory Panel is established to report to the County Board regarding the implementation and evaluation of the County Jail Diversion Program.
- (b) The Advisory Panel shall consist of 13 members as follows: one appointed by the Chief Judge, one appointed by the Cook County Sheriff, two appointed by the State's Attorney, one appointed by the Public Defender, two appointed by the City of Chicago, one appointed by the Village of Maywood, and five appointed by the President of the County Board from among the following: one selected from the Bureau of Health Services, one selected from University of Illinois Jane Addams School of Social Work, one selected from Illinois Community Mental Health Providers Association, and two selected from Consumer Organizations with one representing mental health.
- (c) This Advisory Panel's composition will reflect the demographics of the County as a whole. The panel shall select officers from among its membership.

##### Sec. 46-258. Responsibilities.

The Advisory Panel shall:

- (1) Recommend administrative policies and procedures for implementation of the County Jail Diversion Program.

- (2) Identify current federal and state funding resources for services to the mentally ill and substance abuse detainee population.
- (3) Develop a feasibility study to determine the availability of essential mental health and substance abuse disorder services at the community level to ensure a successful mental health and substance abuse 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 for appropriate referrals.
- (5) Assist in establishing a collaborative relationship between the State, the County, local municipalities and local community based mental health and substance abuse disorder service providers with emphasis on mutual goals, shared responsibilities and benefits.
- (6) Review existing training curriculum for law enforcement officials and make recommendations for change to enhance their ability, where needed, to identify mentally ill and substance abuse detainees.
- (7) Establish criteria for measuring the outcome of the program.
- (8) Devise a plan for minimizing cost through service integration and funding coordination.
- (9) Lobby Federal and State governments to improve funding resources for Jail Diversion Program services.
- (10) Request that the County apply for grants for support staff to the Advisory Panel.
- (11) Recommend procedures to ensure nondiscriminatory opportunities for Detainees to participate in a diversion program.

#### DIVISION 5. DATABASE

##### Sec. 46-281. Establishment of.

Law enforcement, the State's Attorney's Office and the Probation Department are requested to maintain a data base of information regarding persons who have been diverted by their respective agencies in order to assist in identifying "repeat" offenders who may have been previously diagnosed with a mental illness and/or mental illness with co-occurring substance abuse disorder.

#### DIVISION 6. POLICE EVALUATIONS

##### Sec. 46-306. Police evaluations.

Law enforcement is encouraged to include the following criteria for evaluation of police response to crises involving mentally ill and substance abuse offenders. Evaluations of police responses should be consistently conducted on a case-by-case basis to determine the quality of the processes that law enforcement use to respond to mentally ill and substance abuse detainees. 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) Were family members alerted and included in the problem resolution process?
- (4) Was the detainee transported or referred to the appropriate service provider when warranted?
- (5) Was the detainee formally incarcerated? If so, for what length of time?
- (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 within a year, six months, 90 days, or 45 days?

##### Sec. 46-307. Performance measurement standards.

In providing funding for provider services relating to mentally ill and substance abuse detainees, the County may consider:

- (1) Performance measurements for mental health service providers as recommended by the County Bureau of Health Services consistent with the Illinois Mental Health and Developmental Disabilities Code and standards of professional organizations including, but not limited to, the Illinois Psychological Association and the National Association of Clinical Social Workers.
- (2) Performance measurements for substance abuse service providers as recommended by the County Bureau of Health Services consistent with standards as set forth by the Illinois Department of Human Services, formerly known as the Illinois Department of Alcoholism and Substance Abuse.
- (3) Performance measurement criteria shall include, but shall not be limited to, the following:

- a. Case management.
- b. Total number of detainees seen per quarter.
- c. Number of appointments made by detainee and percentage of those kept.
- d. Documentation that confirms detainees living arrangements.
- e. The amount of periodic follow-up conducted with family-based detainees to determine if basic needs were being met.
- f. Current and accurate detainee records that are available for review by any appropriate governmental agency, in compliance with HIPPA laws.
- g. Rate of recidivism.
- h. Progress report of the detainee's efforts in accordance with the individualized treatment plan.

#### DIVISION 7. APPLICABILITY

##### Sec. 46-311 . Applicability of article.

- (a) As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this article conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within the municipality. This article 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.
- (b) Nothing in this article shall be construed to compel law enforcement officers, the State's Attorney's Office, the Public Defender's Office, the Circuit Court of the 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 article requires express statutory authorization, the approval of any official or requires an agreement between the affected parties, this article shall be contingent upon such statutory authorization, approval or agreement.

##### Sec. 46-312 . Implementation dates.

- (a) Within six weeks of the passage of this Ordinance, an Advisory Panel shall be appointed and approved.
- (b) The Jail Diversion Program shall take effect six months after the creation of the Advisory Panel.
- (c) Within one year after the implementation of this Program, the Advisory Panel shall report to the County Board regarding the number of arrestees diverted, the cost benefits to the County, the effectiveness and future viability of an expanded County wide jail diversion program.

Effective date: This ordinance shall be in effect immediately upon adoption.

**Sponsors:** EARLEAN COLLINS

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
11/19/2014	1	Board of Commissioners	receive and file	
11/19/2014	1	Legislation and Intergovernmental Relations Committee	recommend for receiving and filing	Pass
10/23/2013	1	Board of Commissioners	refer	Pass

#### PROPOSED ORDINANCE AMENDMENT

#### COOK COUNTY JAIL DIVERSION PROGRAM FOR ADULTS AND YOUTH



**BE IT ORDAINED**, by the Cook County Board of Commissioners, that Chapter 46, Law Enforcement, Article IV., Jail Diversion Program, Section 46-171 through Section 46-312, of the Cook County Code is hereby amended as follows:

DIVISION 1. GENERALLY

**Sec. 46-171. Short title.**

This article shall be cited and may be known as the "Cook County Jail Diversion Program for Adults and Youth."

**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 or arrestees in achieving their individualized treatment plan consistent with their diversion plans.

**Case manager.** A person (as a social worker or nurse) who assist in the planning, coordinating, monitoring and evaluation of social services for patients with emphasis on quality of care, continuity of services and cost effectiveness.

**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)

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**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 or arrestee.** A target population detainee or arrestee 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)

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

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, including those with co-occurring substance abuse disorder, throughout Cook County, with a primary focus on high crime areas offenders within the jurisdiction of agreed upon police districts within the City of Chicago and suburban areas, 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 Medicaid or Medicare.

~~Sec. 46-173. Applicability of article.~~

- ~~(a) As provided in Article VII, Section 6(e), of the State of Illinois Constitution of 1970, if this article conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within the municipality. This article 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.~~
- ~~(b) Nothing in this article shall be construed to compel law enforcement officers, the State's Attorney's Office, the Public Defender's Office, the Circuit Court of the 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 article requires express statutory authorization, the approval of any official or requires an agreement between the affected parties, this article shall be contingent upon such statutory authorization, approval or agreement.~~

~~Sec. 46-174. Implementation dates.~~

- ~~(a) Within six weeks of the passage of Ordinance No. 05-O-46, an Advisory Panel shall be appointed and approved.~~
- ~~(b) The Jail Diversion Program shall take effect six months after the creation of the Advisory Panel.~~
- ~~(c) The Jail Diversion Program shall run for a period of 18 months.~~
- ~~(d) Within one year after the implementation of this Program, the Advisory Panel shall report to the County Board regarding the number of arrestees diverted, the cost benefits to the County, the effectiveness and future viability of an expanded County wide jail diversion program.~~

DIVISION 2. PROGRAM ESTABLISHED

**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 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 category 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. - 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) ProviderParticipating 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 Crisis Intervention Center resources for law enforcement. A 24-hour crisis intervention resource center, equipped with social workers shall 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. 46-232. 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 people with mental illness, including those with co-occurring substance abuse disorder throughout Cook County, the following categories of detainees with a primary focus on offenders high crime areas within the jurisdiction of agreed upon police districts within the City of Chicago and suburban areas, 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 or arrestees and with substance abuse detained or arrested for Class A, B and C misdemeanors which are nonviolent.
- (2) Mentally ill detainees or arrestees and with substance abuse detained or arrested for nonviolent Class 4 felony offenses.
- (3) Who live in high crime areas, including veterans returning home with post-traumatic stress disorder.

#### **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. 46-205. - 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. 46-206. - ~~Crisis i~~ntervention ~~t~~Training.**

All persons involved with working with the target population must undergo training. The ~~An~~ 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 the proper use of force, communication, and utilization of the state's database.

**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.

**DIVISION 3. PROGRAM PREREQUISITES**

**Sec. 46-231. Intergovernmental agreement; memorandum of understanding.**

In order to implement the Jail Diversion Program, the County Board requests that one or more Memoranda of Understanding (MOU) or Intergovernmental Agreements be developed between the appropriate authorities including, but not limited to, the County of Cook, the State of Illinois Department of Human Services , the Circuit Court of Cook County, the State's Attorney of Cook County, the Sheriff of Cook County and participating units of local government on behalf of their respective police departments. The agreements shall address the following:

- (1) The roles of the State of Illinois, the County of Cook, and community mental health (708) boards in funding and providing services for the target population detainees in the County.
- (2) The feasibility of improved service coverage for diverted detainees through shared resources.
- (3) The establishment and funding of a 24-hour Crisis Intervention Center to assist police departments with crises involving mentally ill offenders.
- (4) Standardized policies and procedures to ensure equal opportunity for all mentally ill and substance abuse disorder population to participate in a diversion program notwithstanding their place of residence.
- (5) Establishment of agreements with universities to utilize graduate students and social workers who have fulfilled their requirements for public and private reimbursement to minimize cost to the county.

#### **Sec. 46-232. Funding.**

Mental health and substance abuse service providers participating in the County Jail Diversion Program shall seek reimbursement for their services from third party reimbursement sources (i.e., Kidcare, Medicare/Medicaid, and/or private insurance entities) and, where applicable, may be compensated through federal, state and local grants. Subject to the appropriation and availability of funds and to the enactment of an ordinance establishing programmatic requirements, the County shall create a revolving loan fund program to assist community based providers with cash flow problems resulting from delays in reimbursement for diverted detainees from third party reimbursement sources. Service providers shall not be eligible to apply for a revolving loan fund unless reimbursement from the third party reimbursement source is at least 45 days late.

#### **DIVISION 4. ADVISORY PANEL**

##### **Sec. 46-256. Purpose.**

- (a) The purpose of the Advisory Panel is to establish a strong advocacy and resource group to enhance the County's effort to improve the quality of mental health services for the mentally ill and substance abuse population in the County and to reduce this population in our the County jail.
- (b) The 13-member panel shall be composed of persons with expertise in law enforcement, criminal justice, assessment and treatment of the mentally ill and substance abuse population.

##### **Sec. 46-257. Structure.**

- (a) A 13-member Advisory Panel is established to report to the County Board regarding the implementation and evaluation of the County Jail Diversion Program.
- (b) The Advisory Panel shall consist of 13 members as follows: one appointed by the Chief Judge, one appointed by the Cook County Sheriff, two appointed by the State's Attorney, one appointed by the Public Defender, two appointed by the City of Chicago, one appointed by the Village of Maywood, and five appointed by the President of the County Board from among the following: one selected from the Bureau of Health Services, one selected from University of Illinois Jane Addams School of Social Work, one selected from Illinois Community Mental Health Providers Association, and two selected from Consumer Organizations with one representing mental health.
- (c) This Advisory Panel's composition will reflect the demographics of the County as a whole. The panel shall select officers from among its membership.

**Sec. 46-258. Responsibilities.**

The Advisory Panel shall:

- (1) Recommend administrative policies and procedures for implementation of the County Jail Diversion Program.
- (2) Identify current federal and state funding resources for services to the mentally ill and substance abuse detainee population.
- (3) Develop a feasibility study to determine the availability of essential mental health and substance abuse disorder services at the community level to ensure a successful mental health and substance abuse 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 for appropriate referrals.
- (5) Assist in establishing a collaborative relationship between the State, the County, local municipalities and local community based mental health and substance abuse disorder service providers with emphasis on mutual goals, shared responsibilities and benefits.
- (6) Review existing training curriculum for law enforcement officials and make recommendations for change to enhance their ability, where needed, to identify mentally ill and substance abuse detainees.
- (7) Establish criteria for measuring the outcome of the program.
- (8) Devise a plan for minimizing cost through service integration and funding coordination.
- (9) Lobby Federal and State governments to improve funding resources for Jail Diversion Program services.
- (10) Request that the County apply for grants for support staff to the Advisory Panel.
- (11) Recommend procedures to ensure nondiscriminatory opportunities for Detainees to participate in a diversion program.

**DIVISION 5. DATABASE**

**Sec. 46-281. Establishment of.**

Law enforcement, the State's Attorney's Office and the Probation Department are requested to maintain a data base of information regarding persons who have been diverted by their respective agencies in order to assist in identifying "repeat" offenders who may have been previously diagnosed with a mental illness and/or mental illness with co-occurring substance abuse disorder.

**DIVISION 6. POLICE EVALUATIONS**

**Sec. 46-306. Police evaluations.**

Law enforcement is encouraged to include the following criteria for evaluation of police response to crises involving mentally ill and substance abuse offenders. Evaluations of police responses should be consistently conducted on a case-by-case basis to determine the quality of the processes that law enforcement use to respond to mentally ill and substance abuse detainees. 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) Were family members alerted and included in the problem resolution process?
- (4) Was the detainee transported or referred to the appropriate service provider when warranted?
- (5) Was the detainee formally incarcerated? If so, for what length of time?
- (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 within a year, six months, 90 days, or 45 days?

#### **Sec. 46-307. Performance measurement standards.**

In providing funding for provider services relating to mentally ill and substance abuse detainees, the County may consider:

- (1) Performance measurements for mental health service providers as recommended by the County Bureau of Health Services consistent with the Illinois Mental Health and Developmental Disabilities Code and standards of professional organizations including, but not limited to, the Illinois Psychological Association and the National Association of Clinical Social Workers.
- (2) Performance measurements for substance abuse service providers as recommended by the County Bureau of Health Services consistent with standards as set forth by the Illinois Department of Human Services, formerly known as the Illinois Department of Alcoholism and Substance Abuse.
- (3) Performance measurement criteria shall include, but shall not be limited to, the following:
  - a. Case management.
  - b. Total number of detainees seen per quarter.
  - c. Number of appointments made by detainee and percentage of those kept.
  - d. Documentation that confirms detainees living arrangements.
  - e. The amount of periodic follow-up conducted with family-based detainees to determine if basic needs were being met.
  - f. Current and accurate detainee records that are available for review by any appropriate governmental agency, in compliance with HIPPA laws.
  - g. Rate of recidivism.
  - h. Progress report of the detainee's efforts in accordance with the individualized treatment plan.

#### **DIVISION 7. APPLICABILITY**

##### **Sec. 46-311 . Applicability of article.**

(a) As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this article conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within the municipality. This article 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.

(b) Nothing in this article shall be construed to compel law enforcement officers, the State's Attorney's Office, the

Public Defender's Office, the Circuit Court of the 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 article requires express statutory authorization, the approval of any official or requires an agreement between the affected parties, this article shall be contingent upon such statutory authorization, approval or agreement.

**Sec. 46-312 . Implementation dates.**

- (a) Within six weeks of the passage of this Ordinance, an Advisory Panel shall be appointed and approved.
- (b) The Jail Diversion Program shall take effect six months after the creation of the Advisory Panel.
- (c) Within one year after the implementation of this Program, the Advisory Panel shall report to the County Board regarding the number of arrestees diverted, the cost benefits to the County, the effectiveness and future viability of an expanded County wide jail diversion program.

**Effective date:** This ordinance shall be in effect immediately upon adoption.