

TAD Statute
Wisc. Stat. 165.95

165.95 Alternatives to incarceration; grant program.

- (1) In this section:
- (ag) "Tribe" has the meaning given in s. 165.91 (1).
- (bg) "Violent offender" means a person to whom one of the following applies:
1. The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm.
 2. The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.
- (2) The department of justice shall make grants to counties and to tribes to enable them to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, that provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. The department of justice shall make the grants from the appropriations under s. 20.455 (2) (em), (jd), (kn), and (kv). The department of justice shall collaborate with the departments of corrections and health and family services in establishing this grant program.
- (2r) Any county or tribe that receives a grant under this section on or after January 1, 2012, shall provide matching funds that are equal to 25 percent of the amount of the grant.
- (3) A county or tribe shall be eligible for a grant under sub. (2) if all of the following apply:
- (a) The county's or tribe's program is designed to meet the needs of a person who abuses alcohol or other drugs and who may be or has been charged with or who has been convicted of a crime in that county related to the person's use or abuse of alcohol or other drugs.
- (b) The program is designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families by meeting the comprehensive needs of participants.
- (c) The program establishes eligibility criteria for a person's participation. The criteria shall specify that a violent offender is not eligible to participate in the program.
- (cd) Subject to par. (cg), the program does not prohibit a person from beginning or continuing participation in the program because he or she uses a medication that is approved by the federal food and drug administration for the treatment of his or her substance use disorder.
- (cg) The program allows a participant to use a medication that is approved by the federal food and drug administration if all of the following are true:
1. A licensed health care provider, acting in the scope of his or her practice, has examined the person and determined that the person's use of the medication is an appropriate treatment for the person's substance use disorder.
 2. The medication was appropriately prescribed by a person authorized to prescribe medication in the state.
 3. The person is using the medication as prescribed as part of treatment for a diagnosed substance use disorder.
- (d) Services provided under the program are consistent with evidence-based practices in substance abuse and mental health treatment, as determined by the department of health services, and the program provides intensive case management.
- (e) The program uses graduated sanctions and incentives to promote successful substance abuse treatment.
- (f) The program provides holistic treatment to its participants and provides them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court-ordered obligations.



- (g) The program is designed to integrate all mental health services provided to program participants by state and local government agencies and other organizations. The program shall require regular communication among a participant's substance abuse treatment providers, other service providers, the case manager, and any person designated under the program to monitor the person's compliance with his or her obligations under the program and any probation, extended supervision, and parole agent assigned to the participant.
 - (h) The program provides substance abuse and mental health treatment services through providers that are certified by the department of health services.
 - (i) The program requires participants to pay a reasonable amount for their treatment, based on their income and available assets, and pursues and uses all possible resources available through insurance and federal, state, and local aid programs, including cash, vouchers, and direct services.
 - (j) The program is developed with input from, and implemented in collaboration with, one or more circuit court judges, the district attorney, the state public defender, local and, if applicable, tribal law enforcement officials, county agencies and, if applicable, tribal agencies responsible for providing social services, including services relating to alcohol and other drug addiction, child welfare, mental health, and the Wisconsin Works program, the departments of corrections, children and families, and health services, private social services agencies, and substance abuse treatment providers.
 - (k) The county or tribe complies with other eligibility requirements established by the department of justice to promote the objectives listed in pars. (a) and (b).
- (4) In implementing a program that meets the requirements of sub. (3), a tribe or a county department may contract with or award grants to a religious organization under s. 59.54 (27).
- (5)
- (a) A county or tribe that receives a grant under this section shall create an oversight committee to advise the county or tribe in administering and evaluating its program. Each committee shall consist of a circuit court judge, the district attorney or his or her designee, the state public defender or his or her designee, a local law enforcement official, a representative of the county, a representative of the tribe, if applicable, a representative of each other county agency and, if applicable, tribal agency responsible for providing social services, including services relating to child welfare, mental health, and the Wisconsin Works program, representatives of the departments of corrections and health and family services, a representative from private social services agencies, a representative of substance abuse treatment providers, and other members to be determined by the county or tribe.
 - (b) A county or tribe that receives a grant under this section shall comply with state audits and shall submit an annual report to the department of justice and to the oversight committee created under par. (a) regarding the impact of the program on jail and prison populations and its progress in attaining the goals specified in sub. (3) (b) and (f).
 - (bg) A county or tribe that receives a grant under this section shall submit data requested by the department of justice to the department of justice each month. The department of justice may request any data regarding the project funded by the grant that is necessary to evaluate the project and prepare the reports under sub. (5p).
- (5m) In a program funded by a grant under this section, if urine collection for the purposes of a drug test results in the exposure of a program participant's genitals, pubic area, buttock or anus, all of the following must apply:
- (a) The person conducting the urine collection for purposes of a drug test is of the same sex as the program participant.
 - (b) During the urine collection, the program participant is not exposed to the view of any person not conducting the urine collection.
 - (c) The urine collection is not reproduced through a visual or sound recording.
 - (d) The program participant's genitals, pubic area, buttock, and anus are not subject to any physical inspection beyond observation of the urine collection.
 - (e) All staff of the program must strive to preserve the dignity of all program participants subject to urine collection for the purpose of drug testing.



(5p)

- (a)** The department of justice shall, annually, analyze the data submitted under sub. (5) (bg) and prepare a progress report that evaluates the effectiveness of the grant program. The department of justice shall make the report available to the public.
- (b)** The department of justice shall, every 5 years, prepare a comprehensive report that analyzes the data it receives under sub. (5) (bg) and the annual reports it produces under par. (a). The department of justice shall include in this comprehensive report a cost benefit analysis of the grant program and shall submit the report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).
- (6)** A county or tribe may, with one or more other counties or tribes, jointly apply for and receive a grant under this section. Upon submitting a joint application, each county or tribe shall include with the application a written agreement specifying each tribe's and each county department's role in developing, administering, and evaluating the program. The oversight committee established under sub. (5) (a) shall consist of representatives from each county or tribe.
- (7)** Grants provided under this section shall be provided on a calendar year basis beginning on January 1, 2007. If the department of justice decides to make a grant to a county or tribe under this section, the department of justice shall notify the county or tribe of its decision and the amount of the grant no later than September 1 of the year preceding the year for which the grant will be made.
- (7m)** Beginning in fiscal year 2012-13, the department of justice shall, every 5 years, make grants under this section available to any county or tribe on a competitive basis. A county or tribe may apply for a grant under this subsection regardless of whether the county or tribe has received a grant previously under this section.
- (8)** The department of justice shall assist a county or tribe receiving a grant under this section in obtaining funding from other sources for its program.
- (9)** The department of justice shall inform any county or tribe that is applying for a grant under this section whether the county or tribe meets the requirements established under sub. (3), regardless of whether the county or tribe receives a grant.
- (10)** The department of justice shall evaluate every 2 years, the grant program established under this section.

History: 2013 a. 20 ss. 177, 1944; 2013 a. 197; Stats. 2013 s. 165.95; 2015 a. 388; 2017 a. 59, 351.

