

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1767

66th Legislature
2019 Regular Session

Passed by the House April 24, 2019
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 17, 2019
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1767** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1767

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington **66th Legislature** **2019 Regular Session**

By House Appropriations (originally sponsored by Representatives Lovick, Leavitt, Davis, Orwall, Appleton, Macri, Gregerson, Jinkins, Ryu, Pellicciotti, Dolan, Ormsby, Stanford, Peterson, Pollet, Slatter, Valdez, Walen, Frame, and Tharinger)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to establishing a law enforcement grant program
2 to expand alternatives to arrest and jail processes; adding a new
3 section to chapter 36.28A RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.28A
6 RCW to read as follows:

7 (1) Subject to the availability of amounts appropriated for this
8 specific purpose, the Washington association of sheriffs and police
9 chiefs, in consultation with the law enforcement assisted diversion
10 national support bureau, shall develop and implement a grant program
11 aimed at supporting local initiatives to properly identify criminal
12 justice system-involved persons with substance use disorders and
13 other behavioral health needs and engage those persons with
14 therapeutic interventions and other services, the efficacy of which
15 have been demonstrated by experience, peer-reviewed research, or
16 which are credible promising practices, prior to or at the time of
17 jail booking, or while in custody.

18 (2) Grants must be awarded to local jurisdictions based on
19 locally developed proposals to establish or expand existing programs.
20 The lead proposing agency may be a law enforcement agency, other
21 local government entity, tribal government entity, tribal

1 organization, urban Indian organization, or a nonprofit community-
2 based organization. All proposals must include governing involvement
3 from community-based organizations, local government, and law
4 enforcement, and must also demonstrate engagement of law enforcement,
5 prosecutors, civil rights advocates, public health experts, harm
6 reduction practitioners, organizations led by and representing
7 individuals with past justice system involvement, and public safety
8 advocates. A peer review panel appointed by the Washington
9 association of sheriffs and police chiefs in consultation with the
10 law enforcement assisted diversion national support bureau,
11 integrated managed care organizations and behavioral health
12 organizations must review the grant applications. The peer review
13 panel must include experts in harm reduction and civil rights
14 experts.

15 (3) (a) Programs preferred for the award of grant funding are
16 those that have a prebooking diversion focus and demonstrate how they
17 will impact one or more of the expected outcomes of the grant
18 program. Preferred programs must contain one or both of the following
19 components:

20 (i) Employment of tools and strategies to accurately identify
21 individuals with substance use disorders and other behavioral health
22 needs who are known to commit law violations, at or prior to the
23 point of arrest, and immediately engage those individuals with
24 appropriate community-based care and support services that have been
25 proven to be effective for marginalized populations by experience or
26 peer-reviewed research or that are credible promising practices; and

27 (ii) Capacity to receive ongoing referrals to the same community-
28 based care approach for persons with substance use disorders and
29 other behavioral health needs encountered in jail, with an emphasis
30 on securing the release of those individuals whenever possible
31 consistent with public safety and relevant court rules.

32 (b) Proposals targeting prebooking diversion may use funds to
33 identify and refer persons who are encountered in jail to community-
34 based services.

35 (4) Up to twenty-five percent of the total funds appropriated for
36 the grant program may be allocated to proposals containing any of the
37 following components:

38 (a) Utilization of case manager and peer support services for
39 persons with substance use disorders and other behavioral health
40 needs who are incarcerated in jails;

1 (b) Specialized training for jail staff relating to incarcerated
2 individuals with substance use disorders and other behavioral health
3 needs;

4 (c) Comprehensive jail reentry programming for incarcerated
5 persons with substance use disorders and other behavioral health
6 needs; and

7 (d) Other innovative interventions targeted specifically at
8 persons with substance use disorders and other behavioral health
9 needs who are brought to jail for booking or are incarcerated in
10 jails.

11 (5) Proposals must provide a plan for tracking client engagement
12 and describe how they will impact one or more of the expected
13 outcomes of the grant program. Grant recipients must agree to comply
14 with any data collection and reporting requirements that are
15 established by the Washington association of sheriffs and police
16 chiefs in consultation with the law enforcement assisted diversion
17 national support bureau. Grant recipients whose proposals include
18 prebooking diversion programs must engage with the law enforcement
19 assisted diversion national support bureau for technical assistance
20 regarding best practices for prebooking diversion programs, and
21 regarding establishment of an evaluation plan. Subject to
22 appropriated funding, grant awards will be eligible for annual
23 renewal conditioned upon the recipient's demonstration that the
24 funded program is operating in alignment with the requirements for
25 the grant program.

26 (6) The Washington association of sheriffs and police chiefs must
27 ensure that grants awarded under this program are separate and
28 distinct from grants awarded pursuant to RCW 36.28A.440. Grant funds
29 may not be used to fulfill minimum medical and treatment services
30 that jails or community mental health agencies are legally required
31 to provide.

32 (7) Once the Washington association of sheriffs and police
33 chiefs, after consultation with the law enforcement assisted
34 diversion national support bureau, certifies that a selected
35 applicant satisfies the proposal criteria, the grant funds will be
36 distributed. To the extent possible, grant awards should be
37 geographically distributed on both the east and west sides of the
38 crest of the Cascade mountain range. Grant applications that include
39 local matching funds may be prioritized. Grant recipients must be
40 selected no later than March 1, 2020.

1 (8) (a) The grant program under this section must be managed to
2 achieve expected outcomes which are measurable and may be used in the
3 future to evaluate the performance of grant recipients and hold them
4 accountable for the use of funding. The initial expected outcomes
5 defined for the grant program include:

6 (i) To reduce arrests, time spent in custody, and/or recidivism
7 for clients served by the program;

8 (ii) To increase access to and utilization of nonemergency
9 community behavioral health services;

10 (iii) To reduce utilization of emergency services;

11 (iv) To increase resilience, stability, and well-being for
12 clients served; and

13 (v) To reduce costs for the justice system compared to processing
14 cases as usual through the justice system.

15 (b) Programs which apply for and are awarded grant funding may
16 focus on a subset of these outcomes and may target a segment of an
17 outcome, such as reducing time spent in custody but not arrests. The
18 Washington association of sheriffs and police chiefs, in consultation
19 with the law enforcement assisted diversion national support bureau,
20 must develop a plan, timetable, and budget by December 1, 2019, to
21 transition the grant program into a performance-based contracting
22 format and to establish an evidence-based evaluation framework. The
23 plan may include making reasonable modifications to the initial
24 expected outcomes for use in grant contracts. Delivery of the plan to
25 the governor and appropriate committees of the legislature may be
26 combined with the annual report provided in subsection (9) of this
27 section. The research and data division of the department of social
28 and health services and Washington institute for public policy must
29 provide technical support and consultation to support plan
30 development as requested.

31 (9) The Washington association of sheriffs and police chiefs must
32 submit an annual report regarding the grant program to the governor
33 and appropriate committees of the legislature by December 1st of each
34 year the program is funded. The report must be submitted in
35 compliance with RCW 43.01.036. The report must include information on
36 grant recipients, use of funds, and outcomes and other feedback from
37 the grant recipients. In preparing the report, the Washington
38 association of sheriffs and police chiefs may consult with the law
39 enforcement assisted diversion national support bureau.

1 (10) Nothing in this section prohibits the Washington association
2 of sheriffs and police chiefs from soliciting or accepting private
3 funds to support the program created in this section.

4 (11) No civil liability may be imposed by any court on the state
5 or its officers or employees, an appointed or elected official,
6 public employee, public agency as defined in RCW 4.24.470,
7 combination of units of government and its employees as provided in
8 RCW 36.28A.010, nonprofit community-based organization, tribal
9 government entity, tribal organization, or urban Indian organization
10 based on the administration of this grant program or activities
11 carried out within the purview of a grant received under this program
12 except upon proof of bad faith or gross negligence.

13 NEW SECTION. **Sec. 2.** If specific funding for the purposes of
14 this act, referencing this act by bill or chapter number, is not
15 provided by June 30, 2019, in the omnibus appropriations act, this
16 act is null and void.

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