

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, MD 21401-1991

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401-1991

RE: HB0295 (Chapter 238) \ SB0194 (Chapter 237) - Crimes-Substance Abuse-
Parole-Civil Commitment-Diversion, 2004 Session

Dear President Miller and Speaker Busch:

The Crimes-Substance Abuse-Parole-Civil Commitment-Diversion Act was established by House Bill 295 and Senate Bill 194 during the 2004 legislative session. As required by the legislation, the Department of Health and Mental Hygiene is submitting its report on the implementation and status of the Maryland Substance Abuse Fund and the progress of creating a substance abuse treatment alternative for non-violent offenders.

This report includes a presentation of the fees collected for the newly created Substance Abuse Fund. Plans to improve fee collections, through training about this law are included. The Fund provides financial support for the local drug and alcohol councils which strengthen the response to problems specific to each community as this law intends.

Thank you for your continued commitment to drug treatment and the expansion of substance abuse services. If you have any questions, please feel free to contact Peter F. Luongo, Ph.D., Director of the Alcohol and Drug Abuse Administration at 410-402-8612.

Sincerely,

S. Anthony McCann
Secretary

Enclosure

cc: Michelle A. Gourdine, M.D.
Peter F. Luongo, Ph.D.
Ms. Anne Hubbard

The Honorable Robert L. Ehrlich, Jr.
Governor
State House
Annapolis, MD 21401-1991

RE: HB0295 (Chapter 238) \ SB0194 (Chapter 237) - Crimes-Substance Abuse-
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Crimes – Substance Abuse – Parole – Civil Commitment – Diversion Report
The 2004 Comprehensive Substance Abuse Treatment and Diversion Law

The legislation proposed by Governor Ehrlich and enacted by the General Assembly (Chapters 237 and 238, Laws of Maryland 2004) had wide bi-partisan support. The law added diversion from prosecution for low-level, non-violent offenders who are appropriate for drug and alcohol abuse treatment to qualify for their charges to be marked stet or nolle prosequi. Offenders are required to pay an administrative fee of \$150 (in addition to any other fees, fines, or costs) unless the court makes a finding on the record that a defendant is unable by reason of indigency. These fees are used to develop and maintain the Maryland Substance Abuse Fund (Fund). These actions are separate from the Annotated Code of Maryland, Health General Article 8-507 cases.

The Fund is to be used to provide financial support for the local drug and alcohol abuse councils. The law provided the approval for the councils which have been created and are empowered to develop local substance abuse plans that identify priorities and strategies for providing substance abuse prevention, intervention and treatment services in their jurisdictions. The Alcohol and Drug Abuse Administration has been actively involved with the local councils as they strengthen the response to substance abuse problems in their localities as intended.

The law's diversion from prosecution provisions were designed to ensure that prosecutors had access to substance abuse evaluations performed prior to making diversion decisions for eligible non-violent offenders. The evaluations would include a determination of the offender's amenability to treatment and recommendation of an appropriate treatment program.

Data collection and evaluation of these programs are facilitated by the recording of these diversions in limited-access sections of the State's criminal justice information system. Successful completion of treatment directed as part of the diversion allows offenders to expunge their records. It is hard to quantify the financial savings to the State due to the fact that there is no data being gathered Statewide on how many offenders have been diverted into treatment as a result of this law. However, the savings are enormous when offenders are receiving treatment and avoiding continued criminal behavior and rearrest.

Existing statute requires the State Treasurer to hold the Maryland Substance Abuse Fund separate from the General Fund. The State Comptroller is responsible for accounting for the fund balance and distributing monies as directed by the Administration or as approved in the State budget.

Legislative language requires that the fund shall be used by the Administration for the following purposes in order of priority:

- Planning expenses and related costs incurred by local drug and alcohol abuse councils.
- Planning expenses and related costs incurred by any state unit to coordinate planning by local drug and alcohol abuse councils and review grant requests from local governments;
- and
- Substance abuse evaluation and treatment services, including services provided through a drug treatment center.

FY 2005 Results of Diverted Offender Maryland Substance Abuse Fund (MSAF)

In FY 2005, courts in the two jurisdictions contributed to the Maryland Substance Abuse Fund.

Court - Jurisdiction	Amount
District Court of Maryland - Baltimore County	\$4,350.00
District Court of Maryland – Montgomery County	\$20.00
Total FY2005 Collections into MSAF	\$4,370.00

It is the decision of the prosecutors, after reviewing the evaluation and treatment program availability, to determine which offenders will be recommended for diversion into a program. In some jurisdictions prosecutors have been reluctant to choose this route, although in Baltimore County they have found it to be a viable alternative. If the decision is made to recommend diversion a fee may or may not be assessed according to the offender’s ability to pay. Overall the accumulation of funds into the Maryland Substance Abuse Fund (MSAF) has been slow since its implementation in October, 2004. It has been necessary to use State general funds to support start-up of the Local Drug and Alcohol Abuse Councils. Each county and Baltimore City received a \$5,000 award in FY2005 for this purpose.

Growth of the MSAF is critical to facilitate the full planning potential of the local councils. To date, the special funds shown in this report have not been sufficient to offset the total cost for implementation of the local councils. There is an annual cost of \$120,000 for the local councils; the MSAF must grow to offset that annual cost. The Local Drug and Alcohol Councils would be the most appropriate entities to work with the courts to increase collections into the MSAF. This effort could be overseen by the State Drug and Alcohol Council to continue addressing the issue as State’s Attorneys and the Judiciary are represented on the council.

Future Activities

Peter F. Luongo, Ph.D., the ADAA Director has presented the impact of the 2004 Treatment and Diversion Law and judicial options at the annual Judicial Training Conference and other judicial training events. It is anticipated that collections in FY 2006 will increase as district and circuit court judges exercise the provision of assessing court costs dedicated to the Maryland Substance Abuse Fund.

Conclusion

The Alcohol and Drug Abuse Administration recommends that the State Drug and Alcohol Council and Local Councils work with public defenders, state's attorneys and members of the judiciary to increase their familiarity with the statute and the opportunity to assess court costs dedicated to the Maryland Substance Abuse Fund.