



March 22, 2017

TO: Members of the House Finance Transportation Subcommittee

FROM: John R. Leutz, Esq., CCAO Legislative Counsel

SUBJECT: House Bill 49 – Criminal Justice Issues

- A. Drug epidemic impacts on county jails
- B. DRC's "Targeting Community Alternatives to Prison" (T-CAP)

DRUG EPIDEMIC IMPACTS ON COUNTY JAILS

The state took great strides in the 131st General Assembly to address the "opiate epidemic." However, the state needs to be reminded that the jails' mission is not to treat or house the mentally ill or addicted. Jails are not treatment facilities and jail staff are neither envisioned to be nor trained to be treatment providers. The state must accept responsibility for the management and care for the mentally ill and addicted population and get them out of the jails.

The continued incarceration of mentally ill and addicted individuals in county jails places an undue burden of risk and of cost upon these facilities and is clearly outside the purpose for county jails. Jail employees are not trained to manage or treat individuals suffering from mental illness or addiction. This population is at high risk for injuring themselves or others. The health care costs for these individuals are excessive. And, the housing of these individuals in a jail threatens public safety by taking up scarce bed space that was designed for and should be used for housing real criminals.

**County jails have become treatment centers –
Over 70% of jail inmates suffer from addiction or mental health issues.**

Three programs have been outlined by CCAO, BSSA, our county jail administrators, and representatives from the DRC Bureau of Adult Detention and its Jail Advisory Board that are specifically designed to assist county jails in managing and caring for the mentally ill and addicted population. We ask that these programs be developed and funded in HB 49 which would:



County Risk
Sharing Authority

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Counties Uniting for Affordable Health Benefits

Fax: 614-229-4588
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County Commissioners
Association of Ohio
Service Corporation

Fax: 614-221-6986
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- Provide direct treatment and counseling services in the county jail through a program managed by the local county behavioral health boards that utilizes Medicaid managed care providers and local providers to assess and treat jail inmates and, upon release, continue treatment under traditional Medicaid coverage. This program will provide a continuity of care for mental health and addiction services that are so critical for many of the individuals incarcerated in our jails.
- A state-wide behavioral health triage program that provides regional centers that law enforcement can take individuals to who have been taken into custody or are incarcerated which:
 - Serve as a drop-off center and provide crisis beds for crisis intervention
 - Conduct immediate forensic evaluations
 - Manage detoxification
- Require the Department of Mental Health and Addictions Services' Central Pharmacy to provide all psychotropic drugs prescribed for county jail inmates

TARGETING COMMUNITY ALTERNATIVES TO PRISON – T-CAP

The Department of Rehabilitation and Corrections proposed T-CAP program offers unique challenges which counties are currently incapable of addressing. The program seeks to require non-violent Felony 5 offenders to complete their sentence in the communities. But, primarily, it seeks to keep Ohio's prison population down at the expense of the counties.

DRC estimates that approximately 3,400 Felony 5 offenders statewide would be placed in the program. DRC suggests that managing this population of low-level offenders in the community is a much less costly, more effective alternative to state prison and pledges financial assistance to the counties for them to provide the essential treatment they need.

The funding is to flow to the county commissioners. However, because it is to be administered as a Community Corrections Act (CCA) grant, the expenditure of the grant funds will be under the purview of and administered by the courts.

While CCAO believes that this program has merit as a best practice, it does not receive our support at this time for the following reasons:

1. The disposition and rehabilitation of felony offenders is the responsibility of the state. This program would result in a major paradigm shift transferring that responsibility to the counties. We recommend that this matter be addressed in separate legislation where it can be substantially debated apart from state budget deliberations.

2. The state's offer of \$ 32/33 per day in financial assistance is significantly insufficient for the counties. This subsidy would not come close to covering the county's cost. The program becomes an unfunded mandate burdening the county with additional expenses beyond their current budget obligations.
3. There is no infrastructure in place to provide the rehabilitation, treatment and security services required for the program. This applies to counseling, probation and administrative staff; community housing and jail space; and equipment to effectively monitor probation/sentence compliance.
4. Even as a current responsibility of the state, counties are already subsidizing the state's cost of incarcerating these offenders by housing them in our jails at our expense and for which they receive credit against their prison stay for time served.
5. The program becomes mandatory after one year beginning in July 2018. Even for the counties that have the resources necessary to manage the program it is a practical impossibility for them to plan, identify contractors, start up, and begin to manage this program in 12 months.
6. The judiciary has indicated their concern that the prohibition of sending Felony 5 offenders to prison eliminates their discretion in sentencing and removes their ability to use a potential prison sanction as a consequence of the violator's offense. This will make it more difficult for courts to encourage compliance with treatment and will negatively impact their efforts to help fight the opioid epidemic in Ohio.
7. There are a myriad of other crimes resulting in a Felony 5 conviction that this proposal will statutorily prevent offenders who commit them from serving justifiable prison sentences. Additionally, this proposal fails to consider the Felony 5 convictions that are the result of initial, higher felony level charges (i.e. "plea bargaining").