

Trueblood Diversion Program

Engrossed Substitute Senate Bill 5187; Section 215(4); Chapter 475; Laws of 2023

December 1, 2023

Division of Behavioral Health and Recovery
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Executive summary

Senate Bill 5187 (2023) allocated \$8,000,000 of the general fund-state appropriation for fiscal year 2024 to continue diversion programs that were formerly grant-funded through contempt fines pursuant to Trueblood, et al. v. Department of Social and Health Services, et al., United States District Court for the Western District of Washington, Cause No. 14- cv-01178-MJP.

In 2022, Health Care Authority (HCA) was directed to consult with the plaintiffs and court monitor to determine which of the Trueblood diversion programs will continue to receive funding through the previous one-year appropriation from Senate Bill 5693 (2022). HCA executed contracts with seven agencies in fiscal year (FY) 2023 to provide the Trueblood class members diversion opportunities from the criminal legal and/or competency systems and additional social services such as assessments, mental health treatment, substance use disorder treatment, case management, and housing support. One of the agencies secured local funding to sustain their program into FY 2024. HCA maintained contracts with the six other agencies who were not able to secure alternative funding with the Senate Bill 5187 (2023) appropriation.

Additionally, HCA was directed to gather information on each program's model and monthly metrics, and provide recommendations related to further support of the Trueblood Diversion Program in the 2023-2025 fiscal biennium.

Key findings include:

- In fiscal year 2023, the Trueblood Diversion Program collectively served:
 - A total of 3052 participants
 - An average of 794 participants per month
 - A total of 983 Trueblood class members
- None of the currently contracted providers have secured alternative funding to sustain programming beyond FY 2024.

Proviso language

ESSB 5187 (2023), Section 215(4):

\$8,000,000 of the general fund—state appropriation for fiscal year 2024 is provided solely to continue diversion grant programs funded through contempt fines pursuant to Trueblood, et al. v. Department of Social and Health Services, et al., United States District Court for the Western District of Washington, Cause No. 14- cv-01178-MJP. The authority must consult with the plaintiffs and court monitor to determine, within the amounts provided, which of the programs will continue to receive funding through this appropriation. The programs shall use this funding to provide assessments, mental health treatment, substance use disorder treatment, case management, employment, and other social services. By December 1, 2023, the authority, in consultation with the plaintiffs and the court

monitor, must submit a report to the office of financial management and the appropriate fiscal committees of the legislature which includes: Identification of the programs that receive funding through this subsection; a narrative description of each program model; the number of individuals being served by each program on a monthly basis; metrics or outcomes reported as part of the contracts; and recommendations related to further support of these programs in the 2023-2025 fiscal biennium.

Trueblood Diversion Program

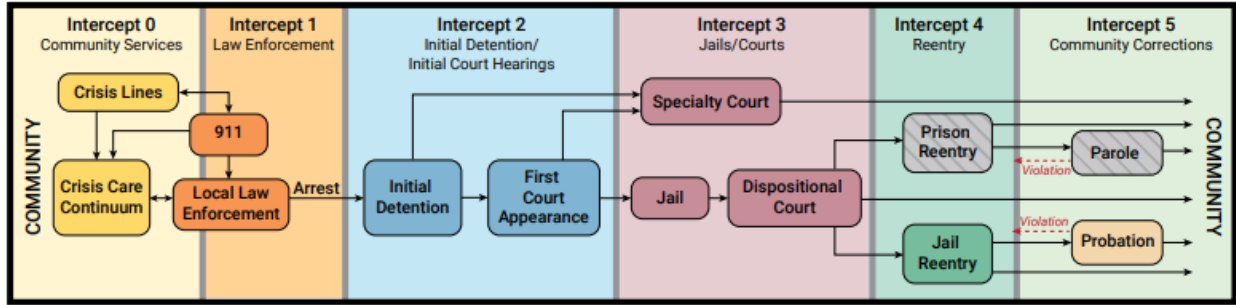
Background

Trueblood vs. Department of Social and Health Services (DSHS) was a lawsuit filed in 2014 that challenged the unconstitutional delays in competency evaluation and restoration services for people detained in jails. The resulting Trueblood Settlement Agreement was approved by the United States District Court, Western District of Washington State in December 2018 and aimed to resolve the lawsuit by delivering an array of services including competency evaluation and restoration services, and community-based supports for class members and potential class members.

Additionally, the lawsuit resulted in millions of dollars of contempt fines collected for failing to comply with the Court’s orders. In 2016, the Court ordered a portion of the contempt fines be used to fund programs that divert class members from the legal and forensic systems and created the Trueblood Diversion Workgroup comprising of the plaintiffs, the Court Monitor, and representatives from DSHS. The Workgroup wrote the [Trueblood Diversion Plan](#) which outlined the summary of class member characteristics and expert recommendations. The Workgroup drafted a request for proposal (RFP) based on the recommendations in the plan and utilized the [Sequential Intercept Model](#) to determine the most effective intercept points to divert Trueblood class members away from the criminal legal system:

Chart 1: The sequential intercept model

The Sequential Intercept Model



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After the RFP, the Court appointed the Seattle Foundation to serve as fiscal sponsor of the contempt fine grants and the Court Monitor to oversee the implementation of 12 Trueblood diversion programs across the state. In 2018, the Seattle Foundation asked Policy Research Associates (PRA) to

provide technical assistance to the original 12 Trueblood diversion programs: [Spotlight on Trueblood Diversion Programs \(prainc.com\)](#).

The Trueblood Diversion Program is separate from the settlement agreement elements, and the grant funding ended in 2022. Several of the original 12 programs were able to secure local funding to sustain program services after the grant funding ended. HCA executed contracts with seven of the remaining Trueblood Diversion Programs for FY 2023 with the one-year bridge funding in Senate Bill 5693 (2022). One of the programs, Greater Lakes Mental Health, secured local funding to sustain their program beyond FY 2023. HCA maintained contracts in FY 2024 with the six other agencies who did not secure alternative funding. Therefore, this report includes information and programmatic outcomes on the six currently contracted programs for FY 2024.

Services overview

Trueblood Diversion Program services were designed to address the common characteristics of the Trueblood class member population including unstable housing status, prior competency services, and unmet mental health and substance use disorder needs. The spectrum of Trueblood Diversion Program services include:

- Intensive case management
- Peer support
- Outpatient behavioral health treatment
- Supportive housing
- Housing subsidies
- Jail reentry services
- Legal coordination
- Co-responders and designated crisis responders

Although the service provision between the six programs may vary, the foundational goals of the Trueblood Diversion Program are consistent:

1. reduce further involvement in the criminal legal system for Trueblood class members
2. reduce demand for competency services for potential class members
3. connect current, potential, and former class members to behavioral health services

Program information

The six contracted programs operate in over eleven counties throughout the state. Four of the programs (Catholic Charities, Community Integrated Health Services, Comprehensive Healthcare, and Kitsap Mental Health) serve nine counties that do not currently offer Trueblood Settlement Agreement programs. Currently, they are the only local programs focusing on Trueblood class members.

Additionally, each program formed partnerships with local criminal legal systems to offer diversion opportunities at multiple intercept points including law enforcement contact, crisis response, initial detainment, jail incarceration, court case proceedings, conviction, and jail reentry.

The current six Trueblood Diversion Programs are outlined in the following table:

Trueblood Diversion Program
December 1, 2023

Table 1: Trueblood Diversion Program identification and narrative description

Trueblood Diversion Programs identification and narrative description	
<p>Agency: Frontier Behavioral Health Program: Co-responder Program Location: Spokane County Sequential intercepts: 0 and 1</p>	<p>Frontier Behavioral Health’s Co-responder Program provides mental health co-responder services to the Spokane City Police Department, and coordinates with the Spokane County Jail and Community Court. This program integrates behavioral health professionals into law enforcement response to improve early intervention for potential Trueblood class members and community members with serious mental illness or co-occurring disorders. Program services include warm hand-off to community services, diversion to crisis stabilization centers, emergency department transfers, jail and court in-reach, certified peer counseling, and connection to behavioral health providers.</p>
<p>Agency: Comprehensive Healthcare Programs: Collaborative Diversion Program and Intensive Community Support Location: Yakima County Sequential Intercepts: 0, 1, 2, 3, and 4</p>	<p>Comprehensive Healthcare’s Collaborative Diversion Program (CDP) provides mental health co-responder and designated crisis response services to the Yakima Police Department, Yakima Sheriff’s Office, and Union Gap Police. This program integrates behavioral health professionals into law enforcement response to improve early intervention for potential Trueblood class members and community members with serious mental illness or co-occurring disorders. The Intensive Community Support (ICS) program provides case management, behavioral health services, and jail reentry support to current Trueblood class members. These program include six designated crisis responders, three diversion case managers, and four behavioral health specialists.</p>
<p>Agency: King County Behavioral Health and Recovery Division Programs: Law Enforcement Assisted Diversion (LEAD); Legal Intervention and Network of Care (LINC); Transitional Supportive Housing (TSH), and Community Outreach and Advocacy Team (COAT) Location: King County Sequential Intercepts: 0, 1, 2, 3, 4, and 5</p>	<p>King County’s Trueblood Diversion Program provides a suite of services through a multi-agency collaboration. These programs provide law enforcement, jail, and prosecutorial diversion to low-barrier behavioral health services, intensive community-based case management, and supportive housing for current and potential Trueblood class members. The Law Enforcement Assisted Diversion (LEAD) program includes case management by Evergreen Treatment Services REACH program, law enforcement diversion to the Seattle Police Department and the King County Sherriff, and prosecutorial diversion to the King County Prosecuting Attorney Office and Seattle City Attorney Office. Community House Mental Health Agency provides prosecutorial diversion and transitional supportive housing to Trueblood class members through the Legal Intervention and Network of Care (LINC). Downtown Emergency Service Center provides ancillary outpatient behavioral health care to participants through the Community Outreach and Advocacy Team (COAT) program. Each program aims to reduce arrest rates and jail</p>

incarceration, resolve court cases through case dismissal or charge reduction, and connect participants to community-based supports.

Agency: Kitsap Mental Health Services
Program: Trueblood Diversion Program
Location: Kitsap County
Sequential Intercepts: 2 and 3

Kitsap’s Trueblood Diversion Program aims to bridge the divide between the behavioral health system and the criminal legal system by providing jail in-reach, reentry planning, certified peer counseling, care coordination, and housing subsidies to current and potential Trueblood class members. This program collaborates with the Kitsap County Office of Public Defense, Kitsap County District Court, and Kitsap County Jail to reduce incarceration time, lessen legal involvement through peer advocacy, and connect current and potential Trueblood class members to behavioral health support.

Agency: Community Integrated Health Services
Program: Trueblood Diversion Program
Locations: Cowlitz, Grays Harbor, Lewis, Pacific, and Wahkiakum Counties
Sequential Intercepts: 2 and 3

Community Integrated Health Services’ Trueblood Diversion Service Program aims to reduce the demand for competency services, minimize the harm inflicted in the criminal legal system, and provide services to individuals with behavioral health needs in the least restrictive environment. This program provides jail reentry planning, outpatient behavioral health services, certified peer counseling, and intensive case management to current, former, and potential Trueblood class members in the county jails and district courts in Cowlitz, Grays Harbor, Lewis, Pacific, and Wahkiakum counties. This program receives referrals from prosecutors, defense attorneys, and judges in order to reduce demand for competency evaluations, resolve court cases, and connect participants to behavioral healthcare.

Agency: Catholic Charities of the Diocese of Yakima
Program: Diversion Crisis Response Services (DCRS) / Co-responder and Jail Diversion programs
Locations: Chelan and Douglas Counties
Sequential Intercepts: 0, 1, 2, and 3

Catholic Charities Diversion Crisis Response Services (DCRS) / Co-responder and Jail Diversion programs increase early identification and intervention for potential Trueblood class members who have contact with the Chelan County Sheriff Office and Chelan County Regional Jail. These programs deflect participants away from arrest and incarceration through co-responder services and crisis response. This program also reduces demand on competency evaluations by diverting potential class members away from court case filings and into care coordination and reentry services. This program includes four diversion case managers, two diversion outreach professionals, and clinical behavioral health staff.

Program metrics and outcomes

Each program submitted monthly and quarterly reports to HCA listing the number of unduplicated people served per month, the number of class members served per month, and participant demographic information related to housing, legal, and behavioral health needs upon program enrollment. The following tables highlight a few of the key program metrics for FY 2023.

Monthly metrics

The following table lists the number of program participants per month during FY 2023 for each program. Collectively, the six currently contracted programs served an average of 794 participants per month in FY 2023.

Table 2: Number of program participants per month during FY 2023 for each Trueblood Diversion program

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Frontier Behavioral Health	62	70	60	59	52	52	44	53	73	53	83	63
Comprehensive Healthcare	n/a	n/a	n/a	298	279	324	385	324	470	437	410	383
King County	255	262	270	276	287	295	304	315	325	335	343	351
Kitsap Mental Health Services	n/a	19	18	20	22	20	20	17	22	20	21	20
Community Integrated Health Services	n/a	72	90	108	107	94	104	108	112	102	98	96
Catholic Charities	24	33	36	42	48	63	66	56	62	47	50	44

The contracts for Comprehensive Healthcare, Community Integrated Health Services, and Kitsap Mental Health Services began after July 2023, therefore, prior data is not available.

Participant and Trueblood class members served

The following table lists the total number of unduplicated program participants and Trueblood class members served by each program during the FY 2023 contract period.

Table 3: Total number of unduplicated program participants and Trueblood class members served by each program during the FY 2023 contract period

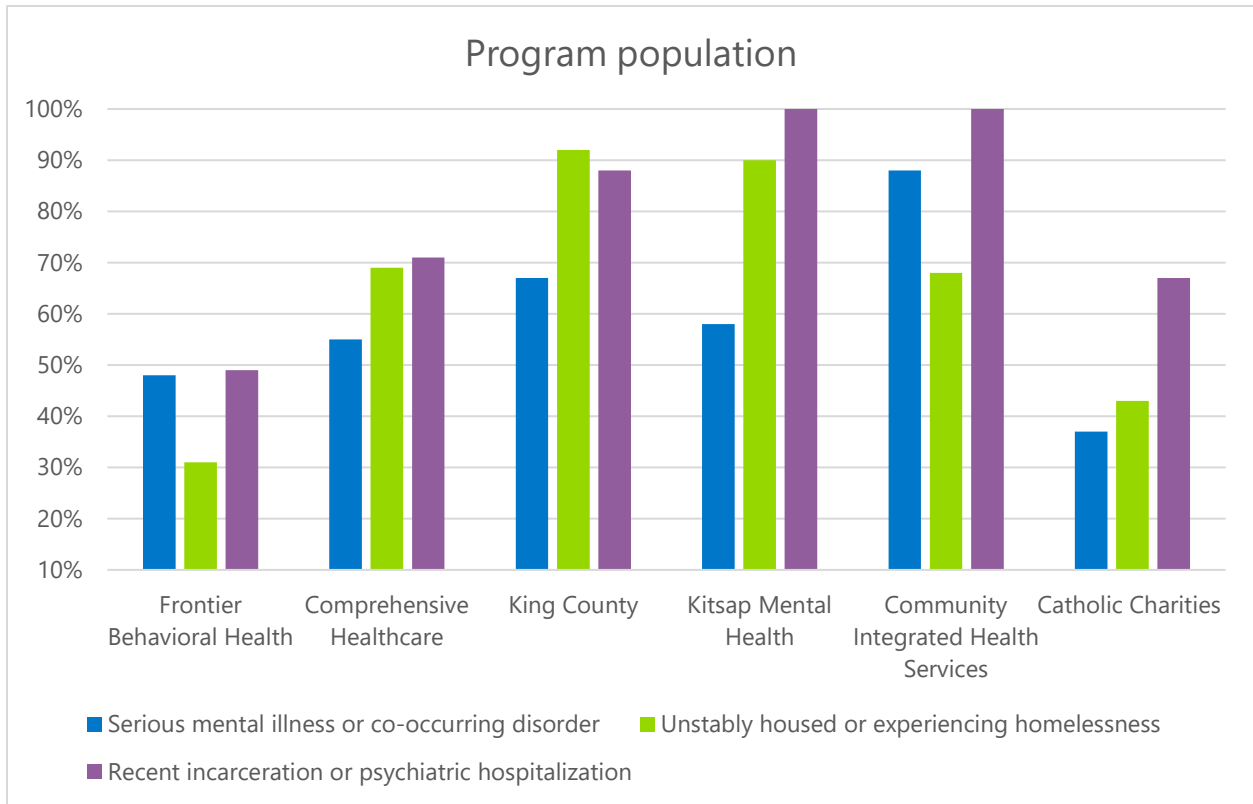
	Total number of unduplicated participants	Number of Trueblood class members
Frontier Behavioral Health	634	99
Comprehensive Healthcare	1,324	315
King County	352	249
Kitsap Mental Health	177	108
Community Integrated Health Services	278	144
Catholic Charities	287	68
Total Program Participants	3052	983

Programs that provide housing, intensive case management, and peer support services may serve less program participants than a crisis response or co-responder program due to difference in long-term vs. short-term service delivery. Additionally, programs that include co-responders or designated crisis responders likely serve a higher proportion of Trueblood class members since the goal of those programs is to reduce legal involvement and demand for future competency services for potential class members.

Program population

To help ensure that programs focused efforts on reducing criminal legal involvement for Trueblood class members and reducing the demand for future competency services for potential class members, programs also reported to HCA program participants' housing status, behavioral health diagnoses, and episodes of homelessness, incarceration, or psychiatric hospitalization within the past 12 months. The following chart depicts the above listed common characteristics among program participants within each program.

Chart 2: Common characteristics among program participants within each Trueblood Diversion Program



Programs that provide crisis response or co-responder services often do not have available information related to a person’s behavioral health diagnoses, housing status, or episodes of incarceration or hospitalization. These programs may underreport these data due to the short-term, crisis-oriented service delivery if that information is not available.

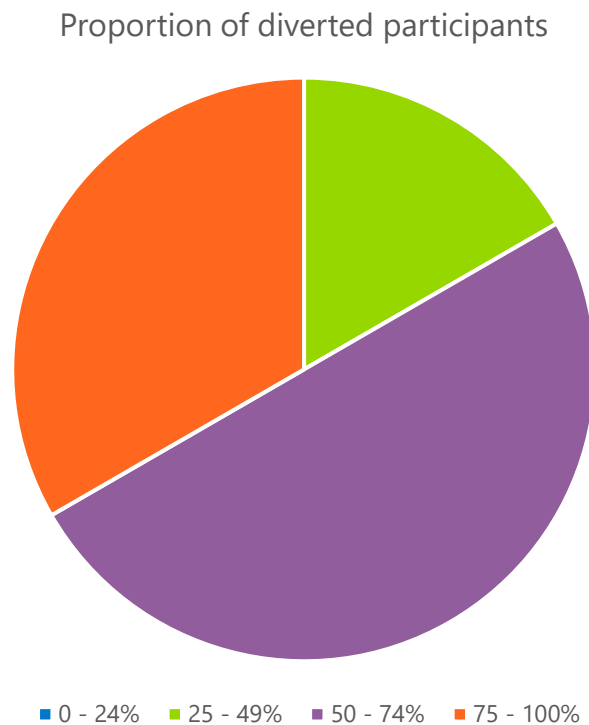
Proportion of diversion

Programs offer a range of diversion mechanisms, and it can be difficult to quantify the occurrence of diversion among a spectrum of program models. However, programs reported to HCA the estimated proportion of participants who were successfully diverted from the forensic or criminal legal systems.

Five out of six programs estimated more than 50% of participants were successfully diverted from the forensic and/or criminal legal system.

Two programs estimated more than 75% of participants were successfully diverted.

Chart 3: Proportion of diverted participants



Additional outcomes

The collection of additional metrics and outcomes varies among programs. However, a few highlights of service-related and programmatic successes include:

- King County’s program reported that 43% of program participants exited the program with housing. Additionally, LEAD and LINC participants experienced a 50% reduction in the average number of jail bookings, 54% of participants in mental health programs increased the number of received mental health services, and 65% of participants enrolled in substance use disorder programs increased the number of received substance use services.
- Frontier Behavioral Health’s co-responder program has responded to 3,294 people since the program’s origin of which only 13% resulted in incarceration.
- Catholic Charities’ program has recently expanded their services to include Douglas County and are building relationships with the Douglas County Prosecuting Attorney’s Office, the City of

Wenatchee Prosecuting Attorney, and the Douglas County Sheriff's Office to increase programming throughout underserved areas.

Medicaid Feasibility

Throughout 2022, HCA staff worked with each program to assess alternative and sustainable funding sources, including Medicaid reimbursement. Medicaid fee-for-service reimbursement requires a person to be eligible and actively enrolled in Medicaid, agency licensure with the Department of Health, and that services are eligible for coverage and deemed medically necessary.

Through a follow-up survey distributed by HCA in 2022, programs reported the following:

- Five out of the seven programs reported that at least 75% of program participants are not actively enrolled in Medicaid at the onset of services due to incarceration or barriers to sustaining Medicaid enrollment.
- Seven out of seven programs reported that the majority of program services are not eligible for Medicaid reimbursement.
- Five out of seven programs reported that at least 75% of program services are not eligible for Medicaid reimbursement.
- Services such as co-responder outreach, case management, jail in-reach, legal coordination, and housing support are not Medicaid eligible services.

Recommendations

Currently, the Trueblood Diversion Program does not have an alternative funding source to sustain programming beyond the current HCA contract for fiscal year 2024. Programs are prioritizing exploring a funding sustainability plan. Programs reported several barriers to Medicaid reimbursement within the current program models and service provision, particularly that most program services are not eligible for Medicaid reimbursement.

Additionally, considerations should be made regarding the potential impacts of these programs transitioning from state funding to local funding, including:

- Programmatic drift away from the Trueblood class member population and towards the general population of people with behavioral health needs in the criminal legal system who are not at-risk of future competency interventions.
- A reduction of diversion practices due to local criminal legal system priorities and vested interests such as a more punitive response to crime.
- Regional considerations as four of the programs serve nine counties that do not currently offer Trueblood Settlement Agreement programs.

If the Trueblood Diversion Program is funded beyond fiscal year 2024, the Trueblood Diversion Program Manager will continue to support the programs with the following goals:

- Maintain fidelity to evidence-based diversion practices and services.
- Improve tracking of key outcomes and metrics including the proportion of program participants that were successfully diverted from the legal or forensic systems.
- Strengthen partnerships with criminal legal stakeholders to increase utilization of diversion, increase Trueblood class member access to behavioral health, and decrease demand on competency services.