

# Trueblood Diversion Program

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Engrossed Substitute Senate Bill 5693; Section 215(4); Chapter 297; Laws of 2022

June 30, 2023

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## Executive Summary

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Senate Bill 5693 (2022) allocated \$10,000,000 of the general fund-state appropriation for fiscal year 2023 and \$219,000 of the general fund-federal appropriation 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.

The 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 this appropriation. HCA executed contracts with seven agencies to provide 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.

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 Programs in the 2023-2025 fiscal biennium.

Key findings include:

- In fiscal year 2023, the Trueblood Diversion Programs have collectively served:
  - A monthly average of 870 participants per month
  - A monthly average of 496 Trueblood class members per month
- 6 of the 7 contracted providers have not obtained local funding for fiscal year 2024

## Proviso Language

ESSB 5693 (2022), Section 215(4) (page 334)

*\$10,000,000 of the general fund—state appropriation for fiscal year 2023 and \$219,000 of the general fund—federal appropriation are 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 June 30, 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.

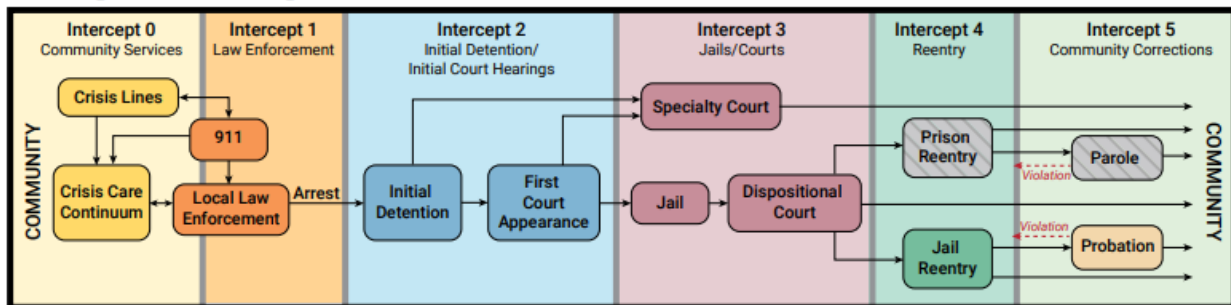
## Trueblood Diversion Program

### 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 utilized the [Sequential Intercept Model](#) to determine the most effective intercept points to divert Trueblood class members away from the criminal legal system:

### The Sequential Intercept Model



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After a request for proposal process, 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.

The Trueblood Diversion Program is separate from the settlement agreement elements, and the grant funding ended in 2022. Several agencies 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 fiscal year 2023.

### Program Overview

The goals of the Trueblood Diversion Program are:

- 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

The seven contracted programs operate in over 12 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 service focusing on potential and current Trueblood class members.

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. Additionally, programs offer a wide range of services including case management, peer counseling, legal coordination, jail reentry support, outpatient behavioral health treatment, and housing.

<b>Trueblood Diversion Programs identification and narrative description</b>	
<p><b>Agency:</b> Frontier Behavioral Health</p> <p><b>Program:</b> Co-responder Program</p> <p><b>Location:</b> Spokane County</p> <p><b>Sequential intercepts:</b> 0, 1, 3, and 4</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><b>Agency:</b> Comprehensive Healthcare</p> <p><b>Programs:</b> Collaborative Diversion Program and Intensive Community Support</p> <p><b>Location:</b> Yakima County</p> <p><b>Sequential Intercept:</b> 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 6 Designated Crisis Responders, 3 Diversion Case Managers, and 4 Behavioral Health Specialists.</p>
<p><b>Agency:</b> King County Behavioral Health and Recovery Division</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-</p>

**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

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 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:** Greater Lakes Mental Health

**Program:** Trueblood Diversion Program

Greater Lakes Mental Health Trueblood Diversion program diverts people with behavioral health conditions from the criminal court system to longer-term treatment and supports. This program coordinates with the Pierce County Prosecuting Attorney’s Office

**Location:** Pierce County  
**Sequential Intercepts:**  
 2 and 3

and the Department of Assigned Counsel and provides linkage to community-based supports through clinical case management, mental health, and peer support services for current and potential Trueblood class members.

**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 4 diversion case managers, 2 diversion outreach professionals, and clinical behavioral health staff.

## Program Metrics and Outcomes

### Program metrics

As directed by the proviso, each program reported to HCA the number of participants served on a monthly basis. The following table lists the monthly average number of participants and average percentage of current Trueblood class members served by each program:

Program	Monthly average number of participants	Percentage of current Trueblood class members
Frontier Behavioral Health	59	6%
Comprehensive Healthcare	309	72%
King County	288	62%
Kitsap Mental Health	21	93%
Community Integrated Health Services	96	23%
Greater Lakes Mental Health	41	91%
Catholic Charities	56	49%
<b>Total Monthly Average</b>	<b>870</b>	<b>57%</b>

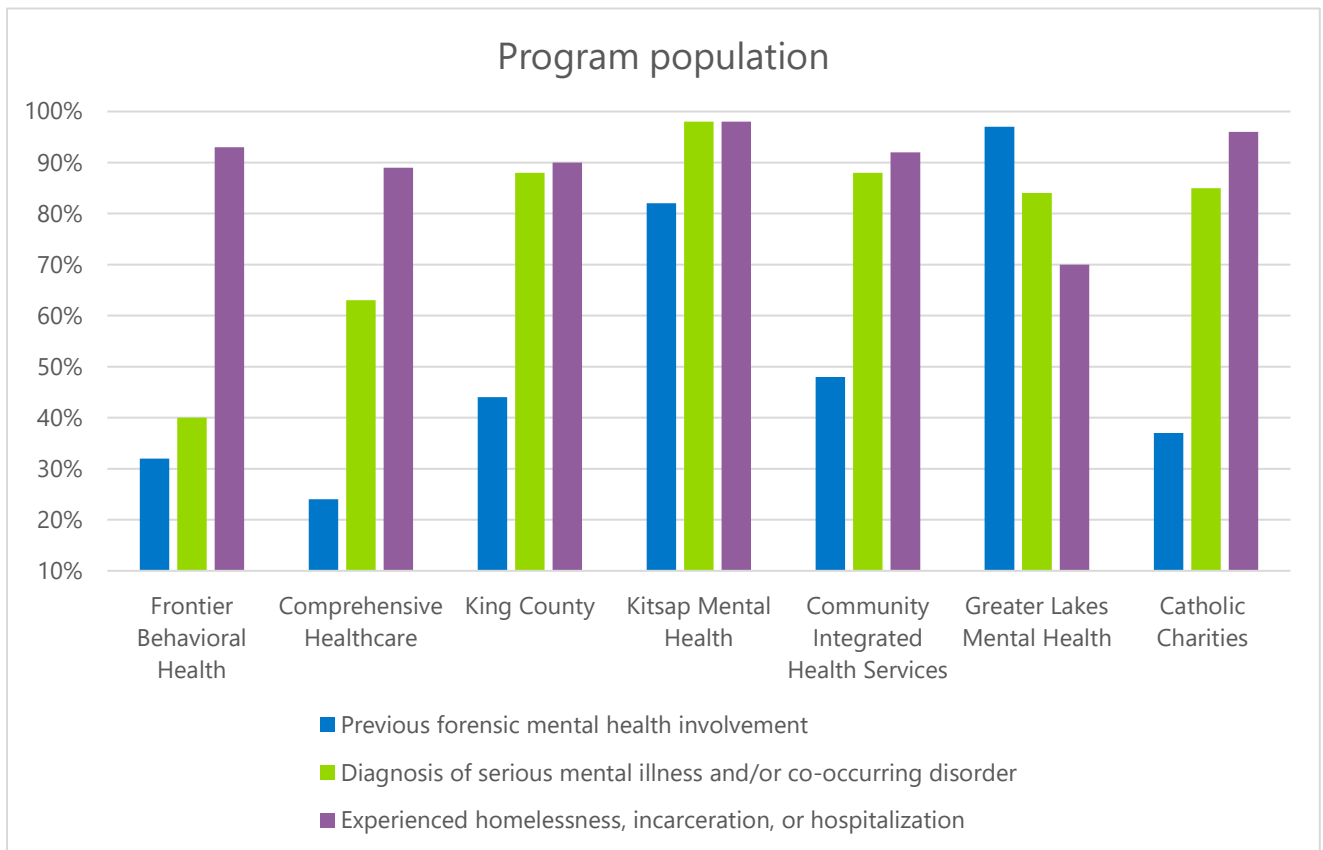
This table represents the monthly average of people served by each program since the onset of respective contracts with HCA for fiscal year 2023 to March 2023. Programs that include co-responders or crisis responders serve less current Trueblood class members since the goal of those programs is to reduce 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 current Trueblood class members and reducing the demand for future competency services for potential class members, programs also reported to HCA the following:

- the number of participants with previous forensic mental health involvement
- the number of participants with a serious mental illness (SMI) and/or co-occurring disorder
- the number of participants who experienced 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:



*This chart represents the average proportion of common characteristics from program since the onset of respective contracts with HCA for fiscal year 2023 to March 2023.*

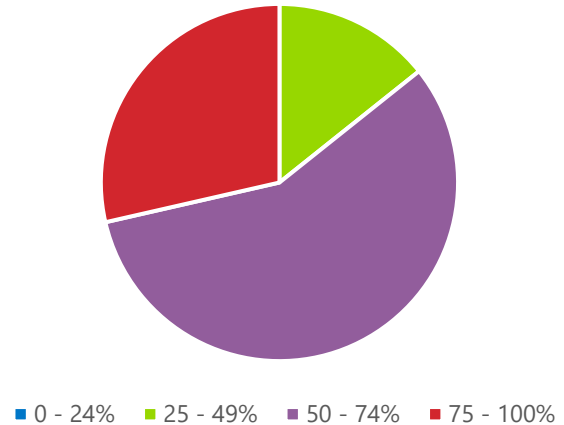
## Proportion of diversion

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.

6 out of 7 programs estimated more than 50% of participants were successfully diverted from the forensic and/or criminal legal system.

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

Proportion of diverted participants



## Additional outcomes

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

HCA staff met with each program to assess possible sources of funding, including Medicaid reimbursement, to sustain program services beyond the current HCA contract for fiscal year 2023. Medicaid fee-for-service reimbursement requires a person 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, 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

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Currently, six of the seven programs do not have local funding to sustain programming beyond the current HCA contract for fiscal year 2023. Exploring a funding sustainability plan remains a priority for these programs. 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 2023, the Trueblood Diversion Program Manager will support the programs with the following goals:

- 1) Maintain fidelity to evidence-based diversion practices and services
- 2) Improve tracking of key outcomes and metrics
- 3) 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