



37597

Resolution

Create a diversion program for individuals experiencing homelessness

Adopted

UNTREATED MENTAL ILLNESS AND SUBSTANCE ABUSE AMONG OUR UNHOUSED

WHEREAS, the City of Portland (the "City") is experiencing an epidemic of mental illness, drug addiction, and homelessness, causing an unprecedented crisis that requires collaboration among all levels of government to address; and

WHEREAS, because the City has very limited authority to provide behavioral health services and implement enforcement of the law, the City recognizes the importance of continued collaboration with stakeholders working in the legal and homeless services space to provide meaningful access to resources for this vulnerable population of our community; and

WHEREAS, despite the limited authority, the City has focused significant resources toward addressing this crisis with the intent to centralize information and resources available to provide shelter and services to those experiencing homelessness; and

INCREASE AND IMPROVE ACCESS TO TREATMENT SERVICES

WHEREAS, the City has resolved to create designated camping sites to provide managed campuses with hygiene, food, and greater access to services across the continuum of care; and

WHEREAS, as designated campuses open, the City and other stakeholders will be tasked with both incentivizing people who decline offers of shelter to camp in these areas, and implementing a strategy to address those who decline offers of shelter or relocation to appropriate sites; and

MORE EFFECTIVE INCENTIVES TO VOLUNTARILY CHOOSE TREATMENT

WHEREAS, the City acknowledges the importance of addressing underlying causes that can often lead people to become homeless rather than criminalizing low level conduct that is often associated with homelessness. For example, for people living in poverty fines and costs associated with low level criminal offenses can create a spiraling set of economic and justice consequences, including arrest or civil judgments, that limit their ability to get a job, obtain housing, and take out a loan. These consequences can further limit a person's ability to rebuild financial security [i]; and

WHEREAS, diversion programs can help alleviate many of these collateral consequences by offering people cited for low level offenses opportunities to address pending cases outside of the criminal legal system; and

Introduced by

[Mayor Ted Wheeler](#); [Commissioner Dan Ryan](#)

Contact

Stephanie Howard
Mayor's Director of Community Safety

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Requested Agenda Type

Time Certain

Date and Time Information

Requested Council Date November 3, 2022
Requested Start Time 2:00 pm
Time Requested 3 hours (5 of 5)

CRIMINAL PUNISHMENTS FOR LOW LEVEL OFFENSES RARELY ADDRESS UNDERLYING ISSUES

WHEREAS, diversion programs focus on root problems by recognizing that incarceration will not solve homelessness, job and food insecurity, substance use disorders, or other factors that contribute to harm. Working to remedy these underlying problems improves community safety and the health of the community in the long-term [ii]; and

WHEREAS, diversion programs engage community and recognize that restoration, healing, service provision, and relationship-building are more effective when done in the community, not in custodial settings [iii]; and

DIVERSION PROGRAMS SHOW RESULTS

WHEREAS, diversion programs center people's humanity by operating on the belief that people are more than the labels the criminal legal system attaches to them, empowering them to address their underlying needs with a sense of personal agency. Centering on humanity often leads participants to find diversion fairer than the traditional court system [iv]; and

WHEREAS, diversion to treatment, for example, has proven to be less expensive than incarceration. A 2010 study found if just 10 percent of people eligible for diversion were sent to community-based substance use treatment programs rather than prison, the criminal legal system would save \$4.8 billion compared to current practices. Furthermore, every dollar invested in drug treatment yields \$12 worth of savings in terms of reducing future crime and health care expenses [v]; and

WHEREAS, in a 2018 study in Harris County, Texas, researchers found positive outcomes for diversion programs in criminal courts. After reviewing diversion policy shifts and how they impacted people before and after implementation, the study found that diversion substantially decreased a person's future convictions by 48 percent 10 years after participation and improved employment outcomes by 53 percent over the same period [vi]. Rather than spending time behind bars, diverted people returned to their communities less likely to be re-convicted and found employment that helped get them back on their feet [vii]; and

NOW THEREFORE BE IT RESOLVED, the City is requesting partnership with stakeholders, including the MCDA, the judiciary, service providers, and subject matter experts on the design and implementation of a voluntary diversion program for City Council approval; and

BE IT FURTHER RESOLVED, the City's intent for this program would be to offer legal relief and a means of connecting people with individually relevant services to improve the homeless crisis in Portland; and

BE IT FURTHER RESOLVED, the City seeks to ensure collaboration among stakeholders, including the MCDA and others, in order to provide alternatives to punitive sanctions and improved access to service provider networks for homeless community members; and

BE IT FURTHER RESOLVED, the City is requesting assistance from County law enforcement agencies, such as the MCDA, to help design a system for referring homeless community members to diversion in a manner that minimizes exposure to criminal and financial penalties. For instance, when a low level violation occurs, the City wants to ensure people experiencing homelessness are provided with multiple opportunities to avoid punitive sanctions of any kind. To achieve this goal, the City

will collaborate with stakeholders to design an enforcement approach utilizing multiple warnings and repeated invitations to participate in diversion before any civil or criminal penalty would be imposed; and

BE IT FURTHER RESOLVED, this program will aim to remove legal barriers in support of achieving long-term self-sufficiency for people experiencing homelessness in Portland. Subject to jurisdictional authority, the program could achieve these goals in a variety of ways, including clearing outstanding arrest warrants, waiving fines and costs, designing alternatives to incarceration, and expungement of eligible criminal records for people participating in the program; and

BE IT FURTHER RESOLVED, the City also intends for this program to take every reasonable measure possible to alleviate collateral consequences arising from violations to homeless community members, employ progressive, multi-faceted approaches to avoid incarceration, match people with appropriate services, and build greater opportunities for self-sustainability for those experiencing homelessness; and

BE IT FURTHER RESOLVED, the City Attorney's Office is directed, to consult with the MCDA, to review City Code provisions regulating camping in public spaces and recommend to Council code amendments to conform with recent court opinions as well as code amendments creating a diversion program for those violating the City's camping regulations; and

BE IT FURTHER RESOLVED, the City Council requests that staff return with implementation, operational and funding plans for its further consideration.

[i] <http://www.vera.org/downloads/publications/the-high-price-of-using-justice-fines-and-fees-new-york.pdf>

[ii] <https://www.vera.org/diversion-programs-explained>

[iii] <https://www.vera.org/diversion-programs-explained>

[iv] <https://www.vera.org/diversion-programs-explained>

[v] <https://www.lac.org/work/priorities/building-health-equity/diversion-to-treatment#:~:text=Building%20Health%20Equity,-Addiction%20and%20Mental&text=By%20targeting%20the%20underlying%20problems,cell%20before%20they%20return%20home>

[vi] <https://www.vera.org/diversion-programs-explained>

[vii] <https://www.vera.org/diversion-programs-explained>

Impact Statement

Purpose of Proposed Legislation and Background Information

The purpose of this legislation is to declare the City Council's intent to request assistance from stakeholders, including the Multnomah County District Attorney ("MCDA") and other experts providing community-based homeless, mental health and substance abuse recovery services, to create a services diversion program by offering people cited for low level offenses more opportunities to address pending legal issues and related collateral consequences outside of the criminal legal system.

Financial and Budgetary Impacts

Additional details will be added when available.

Community Impacts and Community Involvement

Adoption of this Resolution will demonstrate the City's commitment to an inclusive process for the development of a program to reduce barriers to legal services, divert people experiencing homelessness away from the criminal legal system, and connect them with resources to reduce the collateral consequences of homelessness. This Resolution calls for collaboration among service providers, community, and governmental stakeholders to ensure the program is representative of best practices and the views needs of those experiencing homelessness.

100% Renewable Goal

Additional details will be added when available.

Budget Office Financial Impact Analysis

This resolution requests assistance from stakeholders, including the Multnomah County District Attorney and other experts, to create a proposal for a services diversion program offering people cited for low-level offenses more opportunities to address legal issues outside of the criminal legal system. No details have been provided related to the estimated cost of this ordinance. Based on CBO's understanding of the resolution, there is no immediate fiscal impact, but the new program would likely require new or reallocated resources.

The City's existing allocations related to this type of work include:

- \$1.4 million in General Fund discretionary resources through the Joint Office of Homeless Services for diversion, which provides support for people escaping domestic violence, facing imminent housing loss, or are existing the criminal justice and healthcare systems;
- \$2.2 million in General Fund discretionary resources also through the Joint Office of Homeless Services for the Service Coordination Team, which helps to divert individuals experiencing homelessness and living with behavioral health conditions (particularly substance use disorders) from future contact with the criminal justice system by connecting them with supportive housing and treatment resources;
- \$2.3 million in General Fund discretionary resources for the Behavioral Health Unit within the Portland Police Bureau (see pg. 36 of link), which coordinates law enforcement response and the behavioral health system to support people in behavioral crises resulting from a known or suspected mental health and/or drug and alcohol addiction.
- In addition, the County funds a program for Coordination Diversion for Justice Involved Individuals to connect people with community treatment, housing, and financial and medical entitlements.

Agenda Items

903 Time Certain in October 21-27, 2022 Council Agenda

Continued

Continued to November 3, 2022 at 2:00 p.m. Time Certain.
Submit written testimony to cctestimony@portlandoregon.gov.

931 Time Certain in November 2-3, 2022 Council Agenda

Adopted

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Absent

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea