



Family Sentencing Alternative Pilot Program

Report to the Senate and House Committees on Judiciary

January 23, 2018

Family Sentencing Alternative Pilot Program

Executive Summary

House Bill 3503 (2015) established the Family Sentencing Alternative Pilot Program (FSAPP) – a community program in which eligible non-violent primary parents facing prison sentences are able to continue their parenting role by being diverted from prison and participating in intensive supervision, treatment, and programs geared toward parenting and families. The program promotes the unification of families, prevents children from entering the foster care system, and reduces the chances individuals and their children will become involved in the criminal justice system in the future. Five counties are participating in the pilot: Deschutes, Jackson, Marion, Multnomah, and Washington.

Since the inception of the pilot in January 2016, 133 individuals have participated in the program. Together, these participants are the primary caregivers to 245 minor children who would otherwise be involved in the foster system.

Now that the program has been in existence for two years, and participation has increased, the ability to begin measuring outcomes can begin in 2018. Therefore, next year's report shall include a more comprehensive look at the success and necessary improvements to the program.

To date, the partnership between the Oregon Department of Corrections (DOC) and the Oregon Department of Human Services (DHS) in the development and oversight of the program has been effective. The two agencies have been working closely and collaboratively in the sharing of pertinent information about enrolled individuals and data tracking. Collaboration is taking place at the local level as well – participating counties are meeting regularly with their local DHS offices, district attorneys, and treatment providers.

During the 2017 Legislative Session, HB 3078 amended program elements that will be outlined in this report. In short, the recommendations outlined in the 2016 report were ultimately adopted.

This report will provide you with the program's history, 2017 legislative updates and amendments, and participation numbers to date.

Family Sentencing Alternative Pilot Program

Overview

House Bill 3503 (2015) established the Family Sentencing Alternative Pilot Program (FSAPP) in partnership with a variety of stakeholders, including DOC, DHS, county community corrections agencies, and the circuit courts. FSAPP is a community program in which eligible non-violent primary parents facing prison sentences are able to continue their parenting role by being diverted from prison.

This collaborative effort promotes the unification of families, prevents children from entering the foster care system, and reduces the chances individuals and their children will become involved in the criminal justice system in the future. FSAPP provides support and services for program participants, including intensive supervision with additional treatment and learning opportunities geared toward parenting and families.

Five counties are participating in the pilot: Deschutes, Jackson, Marion, Multnomah, and Washington.

Eligibility

In order to qualify for FSAPP, the individual must:

- Be pregnant or the custodial parent or legal guardian of a minor child;
- Receive a downward departure sentence for a non-person or non-sex crime; and
- Agree to participate in the program.

Determination

If the individual meets the eligibility requirements and receives a downward dispositional departure under the rules of the Criminal Justice Commission, the court may order the individual to sign a release authorizing DHS to provide the county community corrections agency with written confirmation of, and consultation concerning, any open or current juvenile dependency proceedings. This includes any prior substantiated allegations of abuse or neglect involving the individual and a minor child.

After reviewing information, the county community corrections agency, in consultation with DHS, will determine if FSAPP is an appropriate option for the individual.

Program Participation

If it is determined that diversion is warranted, the individual will be allowed to participate in the program. In addition to the terms of probation, the individual may be required to comply with additional conditions such as:

- Geographical restrictions, including house arrest and electronic surveillance; and
- Participation in vocational training and completion of:

- Parenting skills classes;
- Drug and/or alcohol treatment;
- Mental health treatment; and
- Life skills classes.

Program Compliance

The program requires that county community corrections agencies provide quarterly progress reports to the court concerning participants' progress in the FSAPP.

At any time during participation in FSAPP, the court may order an individual to appear to evaluate his or her progress. The court may adjust the conditions of probation if the modifications help the individual in successfully completing the program.

In addition, the court may revoke an individual's participation in the program and sentence the individual to a term of imprisonment if the court finds him or her in willful violation of the conditions of probation.

Appropriations

The 2017-19 fiscal impact of the bill was \$2,144,698 General Fund to be appropriated as follows:

- A Probation Officer (PO) in each of the five participating counties to cover the additional, specialized caseload, starting January 1, 2016;
- Increased probation caseload costs to the community corrections system in the participating counties;
- Additional treatment and housing costs associated with the program; and
- An administrative specialist within DOC, effective December 1, 2015.

Data and Outcomes

The partnership between DOC and DHS in the development and oversight of the program has been effective. The two agencies have been working closely and collaboratively in the sharing of pertinent information about enrolled individuals and data tracking. At the local level, a majority of participating counties have established regular monthly check-in meetings with their local DHS offices, district attorney's office, and treatment providers. A Listserv was also developed to facilitate and enhance information sharing. Counties report these efforts have helped to develop a workable process and strengthen overall working relationships between affected agencies.

Since the inception of the pilot in January 2016, 133 individuals have participated in the program. In addition, these participants have a total of 245 children who have been impacted

by the program. DHS data shows that 91 percent of program participants have had a child welfare referral/history, and 30 percent have a current open case with child welfare. Individual county participation rates are as follows:

County	Participants	Children
Washington	30 Females, 3 Males	63
Jackson	16 Females, 1 Male	29
Deschutes	13 Females, 4 Males	34
Marion	17 Females, 10 Males	43
Multnomah	27 Females, 12 Males	76
Total	103 Females, 30 Males	245

Beginning January 2016, DOC reports the following data:

- 104 participants still in the program
 - 17 participants have been revoked and sentenced to prison.
- 8 participants currently have a warrant due to absconding from supervision.

While it is too early to measure the efficacy of FSAPP, POs report positive changes in clients involved with the program. Observations include: increased client patience with their children, increased engagement and motivation to be successful while on supervision, and increased enthusiasm about the future. FSAPP POs attribute these changes to both more intensive supervision and client interaction, and increased resources and programs geared specifically towards parenting and families. More time is needed to look at completion rates, recidivism, housing and employment stability, and maintaining custody of minor children.

During the prior reporting period, this report contained examples of family successes that have occurred since the inception of the program. Moving forward, DOC is developing a research study that will encompass client and system feedback with examples of what has been working well and areas for improvement.

Legislative Recommendations

During the prior reporting period, a number of legislative amendments were recommended to increase participation, expand consideration at sentencing, and increase oversight and accountability. Legislation was passed that:

- Removed statutory language restricting prior person felonies;
- Allows the court to consider an individual who is pregnant at the time of sentencing or is the parent of legal guardian of a minor child and at the time of the offense or sentencing had physical custody of the child;
- Allows the court to consider eligibility in FSAPP as a mitigating factor when determining whether to sentence the defendant to probation, with a requirement that the

defendant participate in the program as a condition of probation, as a downward dispositional departure under the rules of the commission; and

- Requires DOC to establish a process for selecting counties to participate in FSAPP and allows DOC and DHS to adopt rules to carry out provisions of the bill.

The first three changes are significant factors in the increased number of participants since July 2017. The last amendment resulted in an application process, by which the original five participating counties had the option of applying first. Each county was asked specific questions, tailored to the barriers and issues identified during the first year. Most of these centered around the limited number of participants, yet some were focused on quality assurance issues. In the end, all five original counties were awarded a one-year continuation. In order to receive that continuation, the counties were required to have the Presiding Judge, District Attorney, Representative of the Defense Bar, Community Corrections Director, Sheriff, and a treatment/program provider sign off and acknowledge the program and their commitment to utilizing it when appropriate. Should any county fail to maintain adequate numbers of participants or not be able to maintain the intensive supervision and support required to assist these families, DOC will work to first improve their ability to participate, and then look for another county who has the means and desire to participate.

Conclusion

The continuation of effective interagency collaboration, ongoing program advocacy and education, and the adoption of recommended statutory changes, has increased the number of Oregon families benefitting from the unique opportunities, services and support FSAPP provides. The resulting increase in overall impact of the program will help ensure FSAPP achieves the stated goals of promoting the reunification of families, preventing children from entering the foster care system, and reducing the chances the individual or their children will become further involved in the criminal justice system in the future.