



Family Sentencing Alternative Pilot Program

Report to the Senate and House Committees on Judiciary

January 23, 2016

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 offenders 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, 75 individuals have participated in the program. Together, these participants are the primary caregivers to 139 minor children who would otherwise be involved in the foster system.

While it is too early to measure outcomes, FSAPP Parole and Probation Officers report experiencing positive changes in clientele 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 PPOs 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.

In addition, the partnership between the Oregon Department of Corrections 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 offenders 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.

While early assessments indicate FSAPP is on its way to achieving intended outcomes, the presence of unintended barriers to offender eligibility has also been uncovered. These barriers are inhibiting the overall impact of the program. As a result, the following recommendations should be considered:

- Remove statutory language restricting prior person felonies (830(2)(A));
- Remove statutory language restricting 813.010 (Felony DUI) (830(2)(C));
- Add statutory language allowing for consideration of otherwise eligible pregnant offenders.

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 the Department of Corrections (DOC), Department of Human Services (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 offenders 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 offender must:

- Never have been convicted of a *person felony* as defined in the rules of the Oregon Criminal Justice Commission (CJC);
- Never have been convicted of a sex crime; and
- Be the parent or legal guardian of a minor child and have had physical custody of the child at the time of the offense.

Determination

If the offender meets the eligibility requirements and receives a downward dispositional departure under the rules of CJC, the court may order the offender 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 offender 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 offender.

Program Participation

If it is determined that diversion is warranted, the offender will be allowed to participate in the program. In addition to the terms of probation, the offender 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 agency 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 offender 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 offender'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 2015-17 fiscal impact of the bill was \$2 million General Fund. \$1,895,450 was appropriated to DOC to pay for:

- 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.

In addition, \$104,550 General Fund was appropriated to DHS to pay for positions to coordinate the program.

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 offenders 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, 75 individuals have participated in the program. In addition, these participants have a total of 139 children who have been impacted by the program. DHS data shows that 92 percent of program participants have had a child welfare referral/history, and 33 percent have a current open case with child welfare. Individual county participation rates are as follows:

County	Participants	Children
Washington	24 Females, 1 Male	50
Jackson	7 Females	14
Deschutes	6 Females	11
Marion	12 Females, 4 Males	24
Multnomah	10 Females, 11 Males	40
Total	75	139

For the first year, DOC reports the following outcomes:

- 73 participants still in the program
 - 2 participants have been revoked and sentenced to prison.
- 4 participants (6 percent) currently have a warrant due to absconding from supervision.

Participation is below the anticipated program capacity due to a variety of factors. DHS and DOC conducted multiple meetings, trainings, presentations, individual county visits, and webinars to educate partners and stakeholders on the program. Yet, some of the pilot counties did not fully embrace and begin utilizing the program as a sentencing departure option until recently. In addition, statutory restrictions that limit who may participate impacted a number of people who the counties wanted to include in the program. There are specific legislative recommendations to address this issue that are outlined later in this report.

While it is too early to measure outcomes, 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.

In addition, each county has designed program and supervision responses that reflect the risks and needs of their individual populations. Below is an example from each county of a specific area of focus within their programs.

Washington County

Washington County is assisting participants by going so far as to drive the children to appointments when Mom is unable to make other arrangements. POs and DHS workers are heavily involved in home life, working to help foster a healthy family environment. The Hope House is a home for the women and children of this program. The PO is doing outings with the families, such as taking the kids and parents to the zoo to encourage healthy ways to interact and celebrate as a family.

Marion County

Marion County is heavily involved in the participants' home life, working on things such as chore charts, family rule charts, punishment/reward ideas for kids, and reading and book resources. The PO is also doing skill building activities for the parents such as budgeting, cooking healthy meals on a budget, educational field trips for parents to be able to teach their children (Hallie Ford Museum, State Capitol, fish hatchery, etc.), interactive craft night with kids, picnic in the park, outdoor family games, hiking, and movies in the park. A local attorney is volunteering her time to spend with parents teaching skills, while other staff members do crafts with the children. Marion County attempts to plan activities about every six weeks. They are also offering legal, medical, employment, and educational services through the De Muniz Resource Center.

Jackson County

The PO is developing a relationship with Phoenix Counseling Center – a trauma-informed agency that offers alcohol and drug treatment, as well as mental health services and counseling. Many FSAPP participants are using their services, and they have a very welcoming environment. Jackson County has also developed a texting option for program participants, which allows them to text their PO throughout the week with successes, questions, and requests for help or intervention. Participants have been texting about frustrations with partners, children, or employers, and they are open to suggestions, redirections, and help. This makes the PO more accessible when they need it most. They are using a praise-driven approach that focuses on relationship-building, mentoring, good communication, and boundary setting.

Deschutes County

Deschutes County provides sober housing through Pfeifer & Associates Treatment whenever there is a need for a participant. This housing allows women to have their children at home for no additional cost. Utilizing sober housing, moral recognition therapy, alcohol and drug treatment, recovery mentors, and transportation assistance are some of the ways Deschutes County is providing support and accountability to its participants.

Multnomah County

Multnomah County has partnered with the Center for Family Success (Pathfinders) to provide one of the key programs for both male and female participants. A significant portion of the grant provides Parenting Inside Out, Caring Dads, Moving On, Early Childhood Home Visiting, and Youth Mentoring. The Center for Family Success also provides assistance with family

reunification support and basic needs such as clothing, food, transportation, employment/education, medical/dental care, mental health and A&D recovery groups.

Legislative Recommendations

While early anecdotal assessments indicate the FSAPP program is on its way to achieving intended outcomes, the presence of unintended barriers to offender eligibility has also been uncovered. These barriers are inhibiting the overall impact of the program. Two major issues have arisen within the program that warrant legislative change in order for the program to be fully implemented within five participating counties.

First, the courts need broader discretion to consider whether or not a defendant is appropriate for the program. Current statutory language limits participation to those who have no prior person felonies. Participating counties report encountering a number of parents who stand a chance of benefitting greatly from the FSAPP program, but have previous felony convictions for crimes such as robbery in the third degree, assault in the fourth degree, criminal neglect, and felony DUII. Many of the disqualifying previous convictions occurred several years prior to the current case and, in some cases, these defendants are receiving downward departures from prison, yet are unable to take advantage of FSAPP. In addition, statutory language limits participation to those who have legal physical custody at the time of the arrest. At the time of sentencing, the person may have obtained custody, or is pregnant, but currently would be ineligible for the program.

Neither of these issues prevents a court from departing a defendant to probation; however, they do prevent participation in the program, which may be the best mechanism to hold the person accountable and provide them with the necessary resources to succeed. As a result, the following recommendations should be considered:

- Remove statutory language restricting prior person felonies (830(2)(A));
- Remove statutory language restricting 813.010 (Felony DUII) (830(2)(C));
- Add statutory language allowing for consideration of otherwise eligible pregnant offenders.

Second, counties were chosen to participate based on the support of one or two local stakeholders (for example, the County Community Corrections Agency and the Sheriff's Office). Some of the participating counties have competing programs that divert potential participants to other front-end programs. Other participating counties – a year into the program – still do not have full support from system partners such as the courts, district attorney, or defense bar to fully utilize the program and, therefore, are working with few participants in what could be viewed as an expensive supervision program. Therefore, it is recommended that DOC be authorized to determine participation in the program by creating a grant-like application process, similar to how DOC allocates other Community Corrections program funds. This would allow for accountability and the development of outcome measures that counties would be responsible for achieving.

Conclusion

The continuation of effective interagency collaboration, ongoing program advocacy and education, and the adoption of recommended statutory changes, will increase 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 offender or their children will become further involved in the criminal justice system in the future.