**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3733**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Weeks, Fry, West, Thayer, Wooten, W. Newton, Thigpen, Kirby, Sandifer, Jefferson, Henegan, Erickson, Bennett, Funderburk, Henderson‑Myers and Huggins

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Introduced in the House on January 23, 2019

Currently residing in the House Committee on **Judiciary**

Summary: Community-Law Enforcement Partnership for Deflection and Substance Use Disorder Treatment

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/23/2019 House Introduced and read first time ([House Journal‑page 9](file:///h:\hj\20190123.docx))

1/23/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 9](file:///h:\hj\20190123.docx))

1/30/2019 House Member(s) request name added as sponsor: Thayer, Wooten, W.Newton, Thigpen, Kirby, Sandifer, Jefferson, Henegan, Erickson, Bennett, Funderburk, Henderson‑Myers, Huggins

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3733&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[1/23/2019](file:///p:\pprever\2019-20\3733_20190123.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 50 TO TITLE 44 SO AS TO ENACT THE “COMMUNITY‑LAW ENFORCEMENT PARTNERSHIP FOR DEFLECTION AND SUBSTANCE USE DISORDER TREATMENT ACT”; TO AUTHORIZE LAW ENFORCEMENT AGENCIES TO ESTABLISH DEFLECTION PROGRAMS IN PARTNERSHIP WITH TREATMENT FACILITIES AND COMMUNITY ORGANIZATIONS TO FACILITATE SUBSTANCE USE DISORDER TREATMENT FOR CERTAIN PERSONS COMMITTING OFFENSES INSTEAD OF ARREST AND ADDITIONAL JUSTICE SYSTEM INVOLVEMENT; TO PROVIDE DEFINITIONAL TERMS; AND TO CREATE CERTAIN IMMUNITY FROM LIABILITY FOR INDIVIDUALS WHO SUCCESSFULLY COMPLETE A DEFLECTION PROGRAM AND FOR LAW ENFORCEMENT AGENCIES WHEN IMPLEMENTING DEFLECTION PROGRAMS IN GOOD FAITH.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited and known as the “Community‑Law Enforcement Partnership for Deflection and

Substance Use Disorder Treatment Act”.

SECTION 2. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 50

Community‑Law Enforcement Partnership for Deflection and

Substance Use Disorder Treatment

Section 44‑50‑10. As used in this chapter:

(1) ‘Case management’ means those services which will assist persons in gaining access to needed social, educational, medical, substance use, mental health treatment, and other services.

(2) ‘Community member or organization’ means an individual volunteer, resident, public office, or a nonprofit organization, religious institution, charitable organization, or other public body committed to the improvement of individual and family mental and physical well‑being and the overall social welfare of the community, and may include persons with experience in recovery from substance use disorder, either themselves or as family members.

(3) ‘Deflection program’ means a program in which a peace officer or member of a law enforcement agency facilitates contact between an individual and a treatment facility or licensed physician for assessment and coordination of treatment planning. This facilitation includes defined criteria for eligibility and communication protocols agreed to by the law enforcement agency and the treatment facility for the purpose of providing substance use treatment to those persons in lieu of arrest or further justice system involvement. Deflection programs may include, but are not limited to, the following types of responses:

(a) a post‑overdose deflection response initiated by a peace officer or law enforcement agency subsequent to emergency administration of medication to reverse an overdose, or in cases of severe substance use disorder with acute risk for overdose;

(b) a self‑referral deflection response initiated by an individual by contacting a peace officer or law enforcement agency in the acknowledgment of their substance use or disorder;

(c) an active outreach deflection response initiated by a peace officer or law enforcement agency as a result of proactive identification of persons thought likely to have a substance use disorder;

(d) an officer prevention deflection response initiated by a peace officer or law enforcement agency in response to a community call when no criminal charges are present; and

(e) an officer intervention deflection response when criminal charges are present but held in abeyance pending engagement with treatment.

(4) ‘Law enforcement agency’ means a municipal police department or county sheriff’s office of this State, the South Carolina Law Enforcement Division (SLED), or other law enforcement agency whose officers, by statute, are granted and authorized to exercise powers similar to those conferred upon any peace officer employed by a law enforcement agency of this State.

(5) ‘Treatment facility’ means any facility licensed or approved by the Department of Health and Environmental Control equipped to provide for the care and treatment of chemically dependent persons including the Division of Alcohol and Drug Addiction Services of the South Carolina Department of Mental Health, and any other treatment facility approved by the Director of the Department of Mental Health.

(6) ‘Peace officer’ means any peace officer or member of any duly organized State, county, or municipal peace officer unit, any police force of another State, or any police force whose members, by statute, are granted and authorized to exercise powers similar to those conferred upon any peace officer employed by a law enforcement agency of this State.

(7) ‘Substance use disorder’ means a pattern of use of alcohol or other drugs leading to clinical or functional impairment, in accordance with the definition in the Diagnostic and Statistical Manual of Mental Disorders (DSM‑5), or in any subsequent editions.

(8) ‘Treatment’ means the broad range of emergency, outpatient, intensive outpatient, and residential services and care, including assessment, diagnosis, case management, medical, psychiatric, psychological and social services, medication‑assisted treatment, care and counseling, and recovery support, which may be extended to persons who have substance use disorders, persons with mental illness, or families of those persons.

Section 44‑50‑20. (A) Any law enforcement agency may establish a deflection program subject to the provisions of this chapter in partnership with one or more treatment facilities and one or more community members or organizations.

(B) The deflection program may involve a post‑overdose deflection response, a self‑referral deflection response, an active outreach deflection response, an officer prevention deflection response, or an officer intervention deflection response, or any combination of those.

(C) Nothing shall preclude the General Assembly from adding other responses to a deflection program, or preclude a law enforcement agency from developing a deflection program response based on a model unique and responsive to local issues, substance use or mental health needs, and partnerships, using evidence‑based practices.

(D) Whenever appropriate and available, case management should be provided by a treatment facility or other appropriate provider and may include peer recovery support approaches.

Section 44‑50‑30. An individual who successfully completes a deflection program offered by a law enforcement agency in lieu of prosecution for an offense is immune from prosecution for any pending misdemeanor charges of the law enforcement agency which resulted from the person’s substance use disorder. A person granted immunity from prosecution pursuant to this section may, at a judge’s discretion, be ordered to make restitution to any victim arising out of the alleged offense. The pending charges must be expunged in accordance with Section 17‑1‑40 if the person is granted immunity pursuant to this section and complies with any restitution order.

Section 44‑50‑40. The law enforcement agency, treatment facility, and community members or organizations, in collaboration with the Department of Alcohol and Other Drug Abuse Services and the South Carolina Law Enforcement Division, shall establish a local deflection program plan that includes protocols and procedures for participant identification, screening or assessment, treatment facilitation, reporting, and ongoing involvement of the law enforcement agency. Treatment facilities shall adhere to 42 C.F.R. Part 2 regarding confidentiality regulations for information exchange or release.

Section 44‑50‑50. A law enforcement agency or peace officer acting in good faith shall not, as the result of acts or omissions in providing services pursuant to Section 44‑50‑20, be liable for civil damages, unless the acts or omissions constitute wilful and wanton misconduct.”

SECTION 3. This act takes effect upon approval by the Governor.

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