Jail Diversion: The Michigan Mental Health Code and Assisted Outpatient Therapy

Dayana Wiggins, MSN, BSN, RN, APRN, FNP-C

College of Nursing, Michigan State University

Dr. Dawn Goldstein

May 13, 2023

Table of Contents

Michigan Mental Health Code and Jail Diversion: A Policy Analysis

Persons with serious mental illness (SMI) and co-occurring substance use disorder (SUD) are disproportionally represented within the criminal justice system (Waters et al., 2023). Mental illness occurs at higher rates among people in the criminal legal system when compared to the general population with 16% to 27% individuals in community supervision, 41% in jails, and 56% in state prisons (Waters et al., 2023). SMI is specified as any mental, behavioral, or emotional disorder that seriously impairs functioning over multiple domains and impairs one or more major life activities (Gearing et al., 2024).

Jail diversion policies and programs serve as an alternative to entering the criminal justice system. Jail diversion is especially important amid individuals with SMI and co-occurring SUD. Mack, (2017), discusses that there are great barriers for people suffering with mental illness and substance use disorder to access timely mental health and rehabilitation services in their community. The Treatment Advocacy Center, (2018), explains that mentally ill people too often do not have access to adequate mental health care, and this can lead to drastic consequences such as suicide, homelessness, incarceration, and violence. The United States has a broken mental health system with 50 states and each state displays distinct mental health legislation acting as a barrier to treatment of mentally ill persons (Treatment Advocacy Center, 2018).

According to Scott, (2017), diversion from jail can occur in various ways such as informally, pre-booking, and post-booking. Informal jail diversion occurs when a police officer chooses to warn someone who has possibly violated the law. Pre-booking jail diversion relates to law enforcement referring people with mental illness who are accused of misdemeanors to treatment through courts instead of arrest. Pretrial diversion happens when an individual has been booked, arrested, and after charges have been filed (Scott, 2017).

Scott, (2017), discusses specialized problem-solving courts '*front-end courts*' offer alternative case processing to certain defendants, such as people with mental illness and substance use disorder. For these individuals, diversion from incarceration involves going through court-ordered programs for treatment. The goal is rehabilitation and decrease recidivism or reentry into the criminal justice system (Scott, 2017). Mack, (2017), discusses that jail diversion initiatives are community-centered and are designed to stop the revolving door of mentally ill persons sent to jail then released to the community and back to jail. Communities are key stakeholders in jail diversion programs; thus, it takes a community to stop the revolving door (Mack, 2017).

The Michigan Mental Health Code (MMHC) aims to divert youth and adult persons with mental illness, serious emotional disturbance, or substance abuse disorder from unnecessary jail detention or incarceration (Michigan Compiled Laws MCL 330.1207, section 207). **This policy analysis project will evaluate MMHC jail diversion policies MCL 330.1468, MCL 330.1469a, MCL 330.1461 *court ordered assisted outpatient therapy* (AOT) and MCL 330.1206a*, mediation to resolve a dispute.*** These are distinguished policies that have shown successful outcomes as early intervention initiatives (Michigan Legislature, 2023). Both AOT and mediation to resolve a dispute can occur before persons with SMI and co-occurring SUD enter the criminal justice system and thus before charges are filed. Early intervention is key in preventing incarceration and recidivism (Mack, 2022).

Policy reform that supports best practices initiatives on jail diversion benefits the community and can be measured by reducing a combination of several burdens to stakeholders. AOT is a valuable resource for the loved ones of people with SMI and co-occurring SUD. Gearing et al., (2024), estimate that the cost of having SMI is approximately $1.85 million per person. This amount does not account for emergency treatment or involvement with the criminal

justice system. The financial impact of early intervention with AOT is significantly less costly than incarceration saving millions of dollars (Gearing et al., 2024). This provides an excellent incentive to Michigan legislators.

Significance to Population Health

Bonfine and Nadler, (2019), discusses that the overrepresentation of mentally ill adults in the justice system is well recognized. It is estimated that 17% to 34% of people entering jails met criteria for SMI with prevalence rates three times above the general population. Greater than 60% mentally ill people in the criminal justice system have co-occurring SUD and this challenges the justice system to screen, coordinate, and provide effective services that prevent reincarceration (Bonfine & Nadler, 2019).

According to Myers, (2022), individuals with mental illness are twice as likely to be incarcerated for the same offenses as people in the general population. Efforts toward the decriminalization of mental illness and decrease recidivism have been developed nationwide with each state varying in legislation. Nationwide investments in pre-booking jail diversion programs that redirect mentally ill persons to community mental health programs with treatment can remarkably decrease recidivism, and in turn significantly decrease the cost of care to savings of at least one billion dollars per year in the United States. Pre-booking and post-booking diversion can reduce rates of recidivism, homelessness, decreased local crime, and improve public health and safety (Myers et al., 2022).

Heffernan et al., (2023), points out that it is difficult to estimate the prevalence of mental illness globally. A systematic review of 174 surveys from 63 countries reported global prevalence of mental illness from 1980 to 2013. The meta-analysis revealed that approximately 18% of adults identified as high prevalence for SMI and that the lifetime burden for mental illness was approximately 29% (Heffernan et al., 2023).

Yohanna, (2013), discusses asylums per ancient Greece and Rome, was a place where people who were persecuted could seek sanctuary and refuge. Prisons are the new asylums for people with mental illness and co-occurring substance use disorder. The percentage of people with SMI in prisons and jails is generally estimated to be 16% of the total population. Given the population in United States' prisons and jails totaled 2,361.123 in 2017, approximately 378,000 incarcerated people depicted mental illness (Yohanna, 2013).

The Treatment Advocacy Center, (2018), describes that in 2020 in Michigan the estimated prevalence of severe mental illness for adults with schizophrenia was 87,061 and for individuals with severe bipolar disorder was 182,036 with a total adult population of 7,914,602. In 2005, the total inmate population in Michigan was 67,132 with an estimate of 10,741 inmates with SMI. The likelihood of people with SMI to be incarcerated versus hospitalized was 4.3 to 1 (Treatment Advocacy Center, 2018).

Myers et al., (2022), discusses that investments in jail diversion programs favoring outpatient treatment in community mental health programs can significantly decrease recidivism and reduce costs. Pre-booking and post-booking diversion have demonstrated lower rates of recidivism, homelessness, decrease local crime, while improving public health and safety (Myers et al., 2022). It is beyond time to offer mentally ill persons with new asylums that are centered in community mental health coordinated services.

According to Mack, (2017), Michigan legislation on jail diversion for persons with SMI and co-occurring SUD have court systems becoming the highlight of the more promising jail diversion initiatives. Michigan legislators must provide courts with best practice tools and legal standards that promote early intervention before interception with law enforcement, with AOT and mediation to resolve a dispute as the most promising initiatives. Public safety crisis occurs when there are rigid legal standards that delay or prevent early treatment of persons with mental

illness, and when there is a lack of funds to invest in community-based mental health systems (Mack, 2017).

The Center for Behavioral Health and Justice, (2020), discusses that jail diversion initiatives such as court orders for AOT via petition by a loved one can act as a preventative way from entering the justice system. Moreover, being able to get treatment for a loved one who is mentally ill and incapable of deciding to be treated is a tremendous resource for the family or loved ones of mentally ill persons. A healthy community relies on key stakeholders such as legislators, courts, police enforcement, mental health organizations and leaders, mental health community centers, hospitals, families of mentally ill persons, social workers, persons with SMI and co-occurring SUD to facilitate and sustain successful jail diversion outcomes (Center for Behavioral Health and Justice, 2020).

Background

According to Yohanna, (2013), the deinstitutionalization movement in the 1950s started with the civil rights movement when many groups began to be incorporated into mainstream society. People with SMI and co-occurring SUD were forced to exit psychiatric hospitals and merge into a community that was not prepared to care for them. The closure of psychiatric hospitals was a federal incentive for people with mental illness to get treated in the community, but the federal government failed to deliver. The new policy of psychiatric institutional closings deluged underfunded community services with newer populations that they were ill equipped to serve (Yohanna, 2013). Egart, (2024), considers that from 1955 to 1976, state psychiatric hospitals decreased the number of patients under their care from 559,000 to 171,000. By 1980 psychiatric institutions cared for less than 100,000 people with mental illness. The economic incentive to shift costs from the states to the federal government greatly influenced the deinstitutionalization movement (Egart, 2024).

Tartaro, (2015), discusses that the closure of psychiatric hospitals led people with SMI and co-occurring SUD out of the hospital to the current practice of the criminal justice system managing the treatment of mentally ill persons. The closure of psychiatric hospitals with subsequent failure to provide the mentally ill with community mental health services led to the current mental health crisis in the United States, which is marked by the criminalization of the mentally ill individuals. Data from the Substance Abuse and Mental Health Services Administration (SAMHSA) from 2004 and 2005 revealed that the United States housed three times more people with SMI in prisons than in mental health facilities, and that 40% of people with SMI reported having at least one prison stay (Tartaro, 2015).

Tartaro, (2015), describes that strategies to reduce the entry and reentry of persons with SMI and co-occurring SUD include jail diversion initiatives. Jail diversion programs include screening for the presence of SMI and SUD, mental health provider evaluation, courts to produce a mental health disposition, and coordination of community-based mental health services. Jail diversion programs may include case management, medication management, housing assistance, substance abuse and mental health treatment, case advocacy, and employment assistance (Tartaro, 2015).

Michigan is committed with provisions and innovative programs to promote jail diversion for persons with mental illness. MMHC 330.1207, section 207, *diversion from jail incarceration* determines that each community mental health program must provide services that are designed to divert persons with mental illness, substance use disorders, developmentally disabled from jail incarceration. The Michigan Mental Health and Diversion Council (MMHDC), Michigan Health and Human Services, statewide leaders with the bipartisan work across all branches of the government pave the way to develop a sustainable roadmap to decrease

the rate of persons with mental illness from incarceration and instead direct the mentally ill to appropriate treatment (Michigan Mental Health Code, 2023).

Early intervention before a crisis is paramount in jail diversion initiatives. MCL 330.1468, MCL 330.1469, MCL 330.1461 *court ordered AOT* and MCL 330.1206a *mediation to resolve a dispute* are distinguished policies depicting successful outcomes as early intervention initiatives. However, AOT (MCL 330.1461) and mediation (MCL 330.1206a) impose restrictions that prevent more successful jail diversion outcomes. This policy analysis project conducted a comprehensive investigation of Michigan jail diversion legislation, current proposed bills, comparison of other jurisdictions similar legislation, and best practices initiatives with recommendations that can foster ongoing discussion and policy reform on jail diversion.

Michigan Mental Health Code

It is nearly impossible to understand the reason for the creation of the Michigan Mental Health Code (MMHC) without understanding the historical context and truthful etiology for the dynamic changes of Michigan's mental health system throughout the years. The SAMHSA, (2023), discusses that the federal Community Health Act of 1963 by President John F. Kennedy changed the mental health system structure nationwide. It proposed that federal funds would be used to stimulate state, local, and private action to merge persons with mental illness and developmental disabilities from psychiatric institutions to local community care. The Community Health Act of 1963 aimed at mental health prevention, treatment, and rehabilitation in the community shifting away from care in asylums. The plan had at its core the creation of community mental health centers, federal fundings for states to develop local mental health facilities that best suit their individual needs (SAMHSA, 2023).

According to Egart, (2024), the fundings for the Community Health Act of 1963 by President Kennedy was stopped at its track after his assassination, and any funds left were

reallocated to fund the Vietnan War. At the time it was not considered that veterans returning from the Vietnan War would have greatly benefited from funds that could have been allocated to community mental health centers. Also, after Kennedy's assassination there was a lack of support and opposition to the creation of community mental health centers from the government and communities. Citizens of communities had the mentality of not wanting the mentally ill in their 'backyards' (Egart, 2024).

The MMHC was created in 1974, known as Act 258 of 1974 and defined as "*an Act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and agencies and officials and certain private agencies and individuals, to regulate certain agencies and facilities providing certain mental health or substance use disorder services; (…) to establish procedures regarding individuals with mental illness, substance use disorder, or developmental disability who are in the criminal justice system (…)*" (Michigan Legislature, 2023).

The MMHDC was created in 2013 under executive order 2013-7 to assist the executive office with policy recommendations and legislative action to enforce jail diversion. Later in 2014, executive order 2014-7 expanded the MMHDC with four extra seats to 18 participants to accommodate experts in juvenile justice and lead action plans for juvenile justice initiatives. Juvenile justice action plans aim to prevent the juvenile population from entering the criminal justice system to hamper them from becoming incarcerated adults. MMHDC initiatives include using the Sequential Intercept Model, the national Stepping Up model, and assistance from the Wayne State University Center for Behavioral Health and Justice on jail diversion best practices (Michigan Health and Human Services, n.d.).

The Sequential Intercept Model was created in the early 2000s with the goal of assisting communities understand and structure better ways for the criminal justice system to interact with

persons with mental illness and substance use disorders (SAMHSA, n.d.). The Sequential Intercept Model has the potential to assist leaders and stakeholders to collaborate and divert persons with mental illness and substance use disorders from entering the criminal justice system and provide timely treatment. The Sequential Intercept Model consists of six Intercepts, 0 to 5, with Intercept 0 defined as contact with the criminal justice system and Intercept 5 as community corrections (SAMHSA, n.d.). At each intercept there is an opportunity for communities to identify community resources and plan for additional resources at each phase of Intercepts or interactions with the criminal justice system (SAMHSA, n.d.). The creation of this structured model was essentially an attempt to decrease the rapid incarceration rates of mentally ill persons.

Assisted Outpatient Therapy

The treatment of mental health in Michigan has changed over the years, starting with the practice of asylums. However, The Community Mental Health Act of 1963 (the 1963 Act) was a federal act that fostered the deinstitutionalization of mentally ill persons if the intent of mental health community treatment. The 1963 Act made two promises. First, it promised states to pay for the treatment of mental illness for the impoverished if they were not institutionalized. Second, it promised to create a system of community mental health centers to replace asylums. The federal government promised to pay for community mental health care of deinstitutionalized people with mental illness, which created a great incentive for states to get people out of psychiatric hospitals and merge them into the community. In Michigan, the funds were used in a manner that ultimately did not provide resources for people who did not qualify for Medicaid or people who were not in crisis. The state's public mental health system became Medicaid mental health systems. The federal promise of replacing asylums with community mental health centers was not accomplished. The Bipartisan Safer Communities Act of 2022 was developed to promote the creation of federally funded community mental health centers or Certified

Community Behavioral Health Centers (CCBHCs) for all people regardless of insurance health coverage status (Mack, 2022).

After the 1963 Act, states adopted legislation that made extremely difficult for people with mental illness to be involuntary committed to a psychiatric hospital. The new laws determined strict due process protections and prohibited psychiatric hospitalizations unless a person posed immediate danger to self or others. The only option left was regular hospitalizations, such as going to an emergency room. The combination of federal fundings, changes in states legislation, and advances in mental health treatment promoted closure of almost all psychiatric hospitals in the United States. Many of the persons hospitalized in psychiatric hospitals merged into the community; however, since there were no community mental health centers to care for this population, they went untreated. This led to poor health, poverty, homelessness, and incarceration. The Community Mental Health Act of 1963, the 1965 exclusion of federal funds for hospitalizations in state psychiatric hospitals, the 1975 supreme court ruling that the mentally ill could only be held in state psychiatric hospitals if were incapable of safely live outside the hospital, the overall lack of funding, legislation restrictions for treatment only in the event of a crisis, the lack of community mental health centers led to mentally ill persons to incarceration (Mack, 2022). Prisons became the United States new asylum.

Problem solving courts (PSCs) are also an attempt from Michigan courts to promote jail diversion and to decrease recidivism (Michigan Courts, 2022). PSCs emphasize that they address the root cause of crimes. According to Michigan Courts, (2022), the number of trouble-solving courts as of 2022 were 137 drug treatment courts, 42 mental health courts, 28 veteran treatment courts (Michigan Courts, 2022). PSCs are maintained by the State Court Administrative Office (SCAO), which secures funds from state and federal funding systems, assists PSCs with best

practices certification, training, and several resources (Michigan Courts, 2022). PSCs are helpful but may not have the capabilities necessary to significantly impact intercept 0 because legal criteria among other barriers prevent access to programs, thus not all mentally ill persons are eligible for PSCs. For example, for the Mental Health Court Analysis October 1, 2021, to September 30, 2022, Michigan Mental Health Courts screened 1,299 persons for the mental health program, 614 were admitted to the program, and 555 were discharged from the program. It was mentioned in the data that the participants were discharged because of medical reasons or transferred to another jurisdiction, and that they were removed from the analysis (Michigan Courts, 2022).

According to Mack, (2017), another significant issue is the fact that mentally ill individuals have numerous hospital visits, in which petitions may be made for psychiatric involuntary commitment. However, by the time hearing is set up the mentally ill person is most times no longer at the emergency department (ED) room due to discharge (Mack, 2017). The problem is revolving because the mentally ill individual is often released to the community without being connected with community resources for psychiatric care and will soon return to the ED (Mack, 2017). In 2020, 165,000 persons visited the ED for psychiatric care and 18,000 petitions for involuntary commitment with Michigan's probate court were made (Michigan Courts Caseload, 2020). By the time hearings were available, the individuals were already out of the ED into the community without link for community psychiatric services (Michigan Courts Caseload, 2020).

Kevin's Law was enacted in 2004, in which the Michigan legislature amended the mental health code with four enacted laws. Kevin's Law authorized courts and community mental health agencies to develop and utilize AOT for mentally ill persons who need treatment due to impaired judgement placing the person at substantial risk of significant physical or mental harm in the

near future or presents a substantial risk or physical harm to others in the near future. Public Acts 496 through 499 of 2004 were in effect in March 2005. Kevin's Law allowed for involuntary hospitalization of mentally ill people by a probate court judge, which was a much different law compared to the traditional Section 401 statutory criteria for involuntary hospitalization (House Fiscal Agency, 2015).

In a 2015 survey conducted by the Mental Health Association in Michigan and Partners in Crisis Mental Health & Justice Coalition concluded that the AOT was significantly underutilized, and this was attributed to this law being too complex and confusing. Later in 2017 House Bill 4674 proposed a bill to amend the 1974 PA 258 to amend 32 sections of the Michigan's Mental Health Code including legislation to change AOT programs. House bill 4674 modified the definition of AOT as meaning the categories of outpatient services ordered by the court under Section 468 or under Section 469a of the Michigan Mental Health Code (House Fiscal Agency, 2015).

The 32 amendments in the Michigan Mental Health Code by House Bill 4674 removed barriers that were preventing the use of AOT and provided a pathway for families, friends, community mental health providers to petition probate courts for the mentally ill to receive AOT. The court can order AOT alone or hospitalization with AOT. The mentally ill person has the right to legal counsel that must be provided before the probate court order AOT. People opposed to Kevin's Law and House Bill 4674 amendments are concerned that the law eliminates the right of mentally ill persons to refuse treatment (House Fiscal Agency, 2015).

Barriers to court ordered AOT stems from a lack of collaboration among key stakeholders, incoordination of services, and the scarce availability of psychiatrists and licensed psychologists. Lack of funds is another barrier to access community mental health services. Mentally ill persons who do not have Medicaid and who have insurance have eligibility issues;

therefore, a subcommittee of stakeholders such as the CCBHCs is developing a memorandum so that mentally ill persons in need of care can be routed to CCBHCs regardless of payer/insurers coverage. The lack of knowledge of the availability of AOT and mediation among mental health providers and loved ones of the mentally ill is another considerable barrier (at intercept zero). Most interestingly, health care providers may not even know the existence of involuntary treatment for the mentally ill in the state they practice.

According to Mack, (2022), Michigan has partnered with Wayne State University to develop an AOT Toolkit. The Toolkit designed for AOT is centered in a coordinated response that includes key stakeholders involved in AOT. Michigan legislation and key stakeholders continue to invest in the expansion of AOT because it has shown that the earliest intervention for people with mental illness with community follow up care has made significant mental health and overall health improvements (Mack, 2022).

Domain 1: Problem Identification

Problem Statement/Issue

According to Compton et al., (2017), the unnecessary criminalization and incarceration of individuals, who may best be managed in the community outpatient mental health setting, demonstrates fragmentation and a lack of coordination between community mental health services and the criminal justice system. Jail diversion initiatives that promote coordination and the availability of outpatient community mental health treatment services decrease criminalization and recidivism (Compton et al., 2017). The problem is the overrepresentation of mentally ill persons in jails in Michigan and the restrictions that prevent some policies from achieving better jail diversion outcomes such as section 461 AOT and section 206a mediation and notification of rights.

The key to the success of jail diversion initiatives is early intervention before a crisis occurs. Section 461 court ordered AOT, and section 206a mediation are distinguished policies depicting successful outcomes as early intervention initiatives. Mediation is intrinsic to court ordered AOT and plays a major role in the successful outcome of AOT as it promotes engagement in the treatment plan. However, both AOT (MCL 330.1461, section 461) and mediation (MCL 330.1206, section 206a) impose restrictions that prevent them from achieving a greater benefit in successful jail diversion outcomes. AOT as dictated by the MMHC limits the role of the examiner and the witness in court to a psychiatrist or licensed psychologist (MCL 330.1461), excluding other mental health professionals such as certified nurse practitioners (NPs) and physician assistants (PAs). This restriction reduces the chances of treating incapacitated individuals who are not receiving adequate care for their mental illness, especially in the context of a psychiatrist shortage and the availability of NPs and PAs (Michigan Legislature, 2023). HB 4746 (MCL 330.1461) proposes to amend section 461 to allow NPs or PAs working under a psychiatrist to exam and testify for the need of involuntary treatment, including AOT (Michigan Legislature, 2023). Mediation (MCL 330.1206, section 206a) is a valuable tool in the effort to avoid hospitalization and incarceration and is an effective way to solve disputes between recipients of mental health treatment and the contracted community mental health service provider when there is a disagreement with the treatment plan (Michigan Legislature, 2023). The contracted mental health provider must provide the recipient or his or her legal representative notice that mediation can be requested at the time services are initiated and at least annually (Michigan Legislature, 2023). Mediation is embedded in court ordered AOT and allows for follow ups on treatment plans and compliance. HB 4748 adds section 469b, adding language pertaining to mediation in AOT (Michigan Legislature, 2023). HB 4748 expands on who can request mediation, meaning the recipient or recipient's representative or

care provider can request mediation at any time and that an issue can be mediated without the need to seek court intervention (Michigan Legislature, 2023). For example, a care provider can request mediation if the patient has not been compliant with the treatment plan without the need to pursue the court with a request for intervention through Community Dispute Resolution Centers (CDRCs). HB 4748 states that the mental health provider must notify the recipient or the recipient's representative that they can request mediation at any time after AOT is initiated, expanding the accessibility of mediation to any other instances other than merely annually (Michigan Legislature, 2023).

Proposed HB 4746 expands on the availability of mental health providers which give the opportunity of more persons with mental illness to be treated in the community setting. HB 4748 expands on persons who can request mediation such as the recipient, recipient's representative, or care providers at any time, and without the need to seek court intervention.

It is recommended that Michigan's legislators enact both HB 4746 and HB 4748 because it would allow for availability and accessibility of outpatient community mental health treatment services to persons with mental illness as an early intervention before a crisis and as best practices initiatives for jail diversion in the state of Michigan.

Proposed Questions and Potential Policy Applications

This policy analysis project is guided by the following 1) What are the strengths, weaknesses, and gaps of section 461 and section 206a of the MMHC diversion from jail incarceration? 2) How do Michigan's jail diversion legislation and initiatives compare to similar legislation and initiatives in other states? 3) What are the best practices for Michigan statewide implementation for court ordered AOT and mediation?

This project is directed by the following 1) conduct a comprehensive policy analysis of current legislation related to AOT and mediation jail diversion policies in Michigan, 2) assess

this legislation and initiatives in relation to identified best practices and similar legislation and initiatives in other states, and 3) develop recommendations for the implementation of jail diversion best practices in all Michigan counties through policy reform. This policy analysis intends to address the gaps in current legislation. After thoroughly reviewing current initiatives and proposed bills, this project will make recommendations to Michigan's legislators to enact the priority policy option. Ultimately, it intends to inform Michigan policy makers with timely best practices initiatives that are critical to successful outcomes of jail diversion initiatives in Michigan.

Domain 2: Policy Analysis

Methodological Approach and Research Details

This policy analysis project will use the Centers for Disease Control and Prevention (CDC) policy analytical framework as a methodological approach (CDC, 2013). The framework has three domains: data collection and assessment, policy analysis, and strategy development. In Domain 1, Step 1 will identify the problem of current legislation and initiative gaps on jail diversion in Michigan. It will also provide relevant research and data to support the need for legislative change. In Domain 2, Step 2a will describe the policy options, especially examining policies on jail diversion pertaining to AOT, related current bills and gaps in current jail diversion initiatives. It will also review the literature and best practices from other states that have implemented jail diversion initiatives. Step 2b will assess the policy options based on their public health impact, feasibility, and economic impact. Step 2c will compare and rank the policy alternatives. In Domain 3, a strategy for advancing the adoption of the preferred policy solution will be developed.

Step 2A: Identify and Describe Policy Options

In Domain 2, Step 2a will describe the policy options, especially examining jail diversion policies on AOT, current bills, and gaps in current jail diversion initiatives. It will also review the literature and best practices from other states that have implemented jail diversion initiatives.

Extensive literature search was conducted using various databases such as Health Policy Reference Center, Policy File, CINAHL, PUBMED, Sage, Scopus, Michigan Human and Health Services, and Michigan Legislature. Relevant literature was identified using the key search terms to accomplish the second step of this review. Key search terms included jail diversion AND (policy, policies, law, laws, or legislation) AND (mental health or mental illness or mental disorder or psychiatric illness or behavioral). Search criteria limiters included literature specified to be in English, published between the years 2010 to 2023, full-text articles, and locations within the United States or studies that included the United States.

The initial research resulted in 2,201 relevant studies, reports, reviews, and gray literature. The writer then filtered these results to further assess the relevance to the topic of jail diversion. After a thorough review of the resulting studies, further assessment of the resulting literature abstracts was performed to remove any literature that lacked relevance specific to jail diversion. Furthermore, articles were also removed if they lacked a focus on policy procedures, implications, and recommendations. Studies and literature that specified they were incomplete or were not pertinent to United States policymaking were also excluded from this review.

The final step of this literature review process was selecting the relevant studies. 20 forms of literature were selected that met the above criteria. These articles were analyzed and reviewed to disseminate information related to this policy analysis project research questions. Table 4 in Appendix D details the specifics of each literature source chosen, associated factors

related to jail diversion noted in the literature identified, and the extent to which the specified literature may impact the policy process.

Furthermore, synthesis of the selected relevant policy options was performed. Public health impact, feasibility, and economic and budgetary impacts related to jail diversion policies were considered during this literature review according to the CDC's framework (CDC, 2013). Due to the varying types of literature discovered during this review, not all sources discussed public health impact, the feasibility of jail diversion policies, or budgetary impacts in their findings. This literature review revealed key findings related to jail diversion policies, initiatives, best practices, other jurisdiction initiatives, stakeholder perspectives, and proposed bills related to the selected policies.

According to the CDC's Policy Analytical Framework, a review of literature on jail diversion policy, a survey of best practices, and conducting an environmental scan to understand of what other jurisdictions are practicing are part of this step. Policy options relevant to jail diversion can be collected as evidence for potential strategies to be used in jail diversion initiatives in the state of Michigan. A literature review and a search of grey literature will help describe potential policy options and implications in this step (CDC, 2013).

According to The Treatment Advocacy Center, (2018), the United States mental health system is not a single health system, but it consists of 50 mental health systems. Each state in the United States has thousands of local governments with separate set of laws, policies, regulations, and budgets that ultimately dictate the mental health platform for that state. People who are severely mental ill too often go untreated and this leads to dangerous consequences for themselves, their loved ones, the community, and society. Involuntary psychiatric treatment encompasses emergency psychiatric treatment, inpatient commitment, and AOT. Grading the states analyzed involuntary psychiatric treatment laws that provided for involuntary AOT in each

state. Michigan and Wisconsin received grade A for its involuntary commitment laws including inpatient and AOT. Connecticut, Massachusetts and Maryland do not have statutory authority for some form of AOT. Alabama, Delaware, Georgia, Hawaii, Oklahoma, Pennsylvania and Tennessee depict an outdated standard requiring that harm to self or others be imminent for a person to quality for civil commitment. Wisconsin received the highest score with 96 out of 100 points and Maryland received the lowest score with 18 out of 100 points (Treatment Advocacy Center, 2018).

After reviewing available literature on jail diversion and surveying what other jurisdictions are doing, according to the CDC's *Policy Analytical Framework*, (2013), the next step is to describe each policy option identified from the above background work. Each of these policy options is described by three interconnected criteria: the public health impact, feasibility, and economic and budgetary impacts of each of the following identified policy options. Public health impact disseminates the potential for the policy to impact disparities and quality of life factors. The feasibility criteria determine the likelihood of the specified policy being enacted and implemented. Finally, the economic and budgetary impacts criteria compare the costs to implement, enact, and enforce the policy options and compare the benefits of each. Following the CDC's Policy Analytical Framework, the policy analysis key questions of this framework were used to assess each identified policy option. Please see Step 2a under APPENDIX A, Table 1.

Criteria 1: Public Health Impact

House Bill 4746

AOT (MCL 330.1461, section 461) limits the role of the examiner and the witness in court to a psychiatrist or licensed psychologist, excluding other mental health professionals such as NPs and PAs (Michigan Legislature, 2023.). Section 461 imposes restrictions to the type of

health care providers that can exam and witness people with SMI mental illness who are incapacitated and in need to receive treatment. Therefore, current legislation significantly diminishes the opportunity of early intervention with AOT before a crisis.

HB 4746 (MCL 330.1461) proposes to amend section 461 to allow NPs or PAs working under a psychiatrist to exam and testify for the need of AOT involuntary treatment (Michigan Legislature, 2023). HB 4746 could increase the outreach of court ordered AOT by utilizing the expertise and availability of these mental health providers in the context of a psychiatrist shortage. HB 4746 thus has a high effect size and public health impact because it would permit more persons with SMI to be evaluated and determined need for treatment.

House Bill 4748

Mediation and notification of rights (MCL 330.1206a) pertains to providing mediation of treatment issues in mental health proceedings. It stipulates that the contracted mental health provider must provide the recipient of mental health services or the recipient's legal representative notice that mediation can be requested at the time services are initiated and at least annually (Michigan Legislature, 2013.). The language of current policy 206a is interpreted that mediation occurs at the time mental health services are started and then yearly.

HB 4748 adds section 469b, adding language that allows for mediation to be requested by the recipient, recipients' representative, or care provider at any time not merely yearly. Mediation can take place in Michigan's CDRCs and if an agreement resolution takes place there is no need for court proceedings, which would be significantly less costly for the state. HB 4748 has a medium public health impact on its own. The combination of HB 4746 with HB 4748 would allow for a large reach and high impact on public health. HB 4748 specifically states that the mental health provider must notify the recipient or the recipient's representative that they can request mediation at any time after AOT is initiated, expanding the accessibility of mediation to

any other time other than merely annually (Michigan Legislature, 2023). Mediation is a valuable tool in the effort to avoid hospitalization and incarceration and is an effective way to solve disputes between recipients of mental health treatment and the contracted community mental health service provider when there is a need to discuss and/or if there is a disagreement with the treatment plan. HB 4748 expands on the accessibility of recipients of mental health services in AOT to reach their mental service provider when discussion is needed. Mediation fosters treatment compliance because the recipient of mental health services feels they are part of their treatment plan. The public health impact of HB 4748 is only high if HB 4746 is in effect; otherwise, the public health impact of HB 4748 is medium on its own.

Status Quo

HB 4746 and HB 4748 have not yet reached the senate. In case these bills are not enacted, the *Status Quo* would mean no changes in policies. The public health impact of *Status Quo* is high specifically with HB 4746 because it would prevent the outreach of mental health care due to the shortage of psychiatrists.

Criteria 2: Feasibility

House Bill 4746

HB 4746 is a partisan Republican [R] bill introduced on June 6, 2023, sponsored by representative Donni Steele [R], cosponsored by Representative Mike Harris [R], Representative Mark Tisdel [R], Representative Tom Khun [R], and Representative Brian BeGo [R]. The state of Michigan is composed of a democratic governor, secretary of estate, attorney general, and bother chambers of the estate legislature. The fact that the sponsor and cosponsors of HB 4746 are [R] and the estate is controlled by a democratic trifecta may cause a barrier for this bill to be passed to the senate. HB 4746 is currently under the Michigan Committee on Health Policy and has not reached the senate.

HB 4746 would have a low cost and thus more favorable to the state to be enacted. This is an excellent incentive for passing the HB to the House of Representatives (HR) and House Senate (HS). Opponents of this bill are expected to be the usual opponents of jail diversion policies, partisan political conflicts, and stakeholders who do not hold the same level of medical respect they may have for psychiatrists compared to NPs or PAs. It is possible that professional associations such as the American Medical Association (AMA) be against this bill. The AMA is composed of physicians and are often reluctant to support NPs or PAs to have comparable decision-making legislative rights as physicians. However, because HB 4746 benefits involve greater access to healthcare it outweighs any possible group's interests regarding control of healthcare decision making. Stakeholders include persons with SMI and co-occurring SUD, their guardian, families, CMHSPs, courts, DHHS, MHC organizations and advocates, Michigan residents, and the local community. There is a lot of support for this bill because it can save the state millions of dollars. Therefore, HB 4746 has a high likelihood of being enacted.

House Bill 4748

HB 4748 makes an addition to the current language of the bill that facilitates mediation, which is an important tool in successful treatment outcomes including AOT. Stakeholders include persons with SMI and co-occurring SUD, their guardian, families, CMHSPs, courts, DHHS, MHC organizations and advocates, Michigan residents, and the local community. Supporters include all above stakeholders. Legislators who oppose HB 4748 can be identified if the HB does not move to senate.

HB 4748 economic impact is low and thus more favorable because the Michigan legislature provided a grant to subsidize meditation services. HB 4748 adds language that could create more mediation meetings, but a budget change is not intended for this bill. The promotion of mediation through Michigan’s CDRCs is another means of lowering mediation costs because

it may prevent court hearings. HB 4748 is scalable to the entire state of Michigan. If enacted, the time to be implemented should be less than one year, although this would depend on legislators. HB 4748 has a high feasibility to be enacted.

Status Quo

The option of the S*tatus Quo* is easy to implement. No changes would mean no partisan or political conflicts. The political forces play a significant impact on HB 4746 and HB 4748 due to partisan conflicts, making S*tatus Quo* have a high feasibility of being enacted.

Criteria 3: Economic and Budgetary Impacts

House Bill 4746

HB 4746 is a low-cost bill to the state of Michigan. For the contrary, it would save the state money. It would not cause a monetary burden and would result in savings of millions of dollars. AOT has been proven to be an effective jail diversion policy proven to have saved millions of dollars to Michigan thus far using psychiatrists and licensed psychologists to examine and testify (Mack, 2022). Further savings will be seeing when NPs and PAs working under psychiatrists can also serve as examiners and testify for persons with mental illness in AOT. Myers et al., (2022), discusses that jail diversion initiatives from incarceration significantly decrease costs to savings of at least one billion dollars per year in the United States (Myers et al., 2022). HB 4746 impacts private sectors of the mental health system, besides state mental health agencies. This policy's implementation includes having all NPs and PAs credentialed under all state and private insurances that work with AOT.

House Bill 4748

The costs associated with implementing this policy would be relatively small. The language added to this policy will likely increase the number of requested mediations for recipients of AOT receiving mental health treatment. The cost associated with more mediation

meetings can be likely covered by treatment adherence. When the recipient of AOT completes treatment, this leads to a greater likelihood that the individual will not develop behavior thus decreasing the risk for recidivism. Mediation is inherent to AOT and with successful treatment the state of Michigan can save millions of dollars compared to incarceration and hospitalizations. Therefore, HB 4748 is of low cost to implement and thus more favorable.

Status Quo

The cost of S*tatus Quo* or not enacting HB 4746 and/or HB 4748 is low; therefore, more favorable to implement in the short term. Michigan counties vary in financial capabilities to implement jail diversion initiatives, including AOT. Thus, for many counties S*tatus Quo* would likely be a more enticing option.

Step 2B: Assessment of Policy Options

The policy options are adapted from the CDC's *Policy Analytical Framework* (CDC, 2013). Policy options include *HB 4746*, *HB 4748,* or *Status Quo*. For the policy option *Status Quo,* it signifies no policy change. Each policy option was scored within the matrix, comparing the public health impact, feasibility, economic and budgetary impacts as discussed in the previous domain (CDC, 2013). The scoring quantifies the rankings through the rating scale of "low," "medium," or "high." The scoring for the economic and budgetary descriptors are "less favorable," "favorable," or "more favorable" to identify which policy option is the priority (CDC, 2013).

The implementation of HB 4746 would have a high public health impact because it would permit a significant outreach for mental health providers to assess a greater number of persons with SMI and co-occurring SUD for the need for AOT, including persons living in rural Michigan. HB 4746 is more favorable in terms of financial and budgetary impact because AOT has demonstrated be a best practice jail diversion initiative and has saved millions of dollars to

Michigan thus far using psychiatrists and licensed psychologists to examine and testify (Mack, 2022). Further savings will occur when NPs and PAs working under psychiatrists can also exam and testify in AOT. HB 4748 public health impact on its own and without enacting HB 4746 is medium. HB 4748 does not have a significant public health impact on its own and would only have a high public health impact together with HB 4746. HB 4748 was introduced by republican representatives in a democratic state, and this may constitute partisan conflicts. Despite partisan conflicts, HB 4748 has a high feasibility to be adopted as it can unburden courts and foster treatment compliance. The cost to implement HB 4748 is of low budget, thus more favorable for budgetary and economic impact. HB 4748 can provide savings when CDRCs are used instead of in court hearings. HB 4748 could make mediations more accessible, and this would likely foster treatment compliance which as a result can save the state of Michigan millions of dollars. *Status Quo* or no changes signifies not enacting HB 4746 and not enacting HB 4748. *Status Quo* has a high public health impact because it would mean no outreach or accessibility to mental health services to mentally ill persons in need for treatment, including rural Michigan (HB 4746). *Status Quo* would also mean less accessibility to mediations (HB 4748) and possibly less treatment compliance, which would have a high public health impact. *Status Quo* would not cause partisan conflicts and would be of low budget or no cost to the state of Michigan, thus more favorable. The cost-benefit of S*tatus Quo* is unknown (low cost; unknown benefits) as currently there is no cost-benefit analysis available attached to HB 4746 nor HB 4748; therefore, S*tatus Quo* is ranked as more favorable using the CDC *Policy Analysis Framework* (CDC, 2013).

Please refer to Table 2. As of January 31, 2024, HB 4746 and HB 4748 are still under the Committee for Health. HB 4746 and HB 4748 were rated as policy options using the CDC's *Policy Analytical Framework* (CDC, 2013).

Step 2C: Prioritize Policy Options

For this policy analysis, the most feasible option for implementing and coordinating a legislative jail diversion strategy seems to be implementing HB 4746, which amends section 461 (MCL 330.1461) of the MMHC. HB 4746 is the best policy because in with the current issue of psychiatrist shortage, it permits qualified mental health professionals such as NPs and PAs working under a psychiatrist to testify as to whether a person needs AOT. The implementation of HB 4746 would have a high public health impact because it would permit a significant outreach for mental health providers to assess a greater number of mentally ill persons for the need for AOT, including persons living in rural Michigan.

Early intervention before a crisis is intrinsic to AOT and evaluation can only occur when there is availability of mental health providers. Mack, (2022), discusses that considering the shortage of psychiatrists and other mental health professionals, allowing other qualified mental health providers to testify about the need for treatment is a much wiser use of scarce resources and reduces costly emergency department and hospital visits (Mack, 2022). HB 4746 has a high likelihood of being enacted from a budgetary standpoint because the cost to enact this policy is low in comparison to the costs of incarceration. According to Myers et al., (2022), best practice jail diversion programs that redirect people with SMI and co-occurring SUD to community mental health treatment can significantly decrease the cost of care to savings of at least one billion dollars per year in the United States (Myers et al. 2022).

HB 4748 public health impact and feasibility to enact this bill is high, and the implementation of this bill is of low cost. However, HB 4748 does not have a significant public health impact on its own. HB 4748 would only have a high public health impact with HB 4746; thus HB 4746 is most certainly the most valuable and the priority policy to be implemented.

Status Quo or no changes signifies not enacting HB 4746 and not enacting HB 4748. *Status Quo* has a high public health impact because it would mean no outreach or accessibility to

mental health services to mentally ill persons in need for treatment, including rural Michigan. *Status Quo* would also mean less accessibility to mediations and possibly less treatment compliance, which would have a high public health impact. *Status Quo* would not cause partisan conflicts and would be of low budget or no cost to the state of Michigan, thus more favorable. The cost-benefit of S*tatus Quo* is unknown. No changes would be of low cost; however, the benefits are unknown. There is no cost-benefit analysis available attached to HB 4746 nor HB 4748. Therefore, S*tatus Quo* is ranked as more favorable using the CDC *Policy Analysis Framework* (CDC, 2013).

Domain 3: Strategy and Policy Development

Step 3: Develop a Strategy for furthering Adoption of the Policy Solution

According to the CDC policy analysis framework, after a policy has been prioritized, the next step is to develop a strategy to get the policy enacted and implemented. This includes clarifying operational issues, identifying stakeholders and sharing relevant information. It also involves conducting further analysis as appropriate to support policy enactment, implementation, and evaluation (2013). HB 4746 is the identified policy solution, and the next step is to get the policy enacted by Michigan Legislature and implemented. This bill was introduced on June 16, 2023, by Republican Representatives Steele, Harris, Tisdel, Kuhn, and BeGole. HB 4746 status is it is sitting in the committee - Committee on Health Policy (Michigan Legislature, 2023).

Clarifying Operational Issues

This policy analysis project has no political affiliations or preferences, nor is it this project's intention to discuss politics. It is though important to describe the current political environment of the state of Michigan to have a better understanding of political facts that can possibly be reflected in operational issues. HB 4746 is currently a republican partisan bill and was sponsored and cosponsored by republican representatives of the state of Michigan. This is a

partisan bill in a predominantly democratic state. The state of Michigan has democratic governorship, and the democratic party holds the majorities in both chambers of the state legislature (Ballotpedia, 2024). The fact that HB 4746 is not bipartisan, and in the context that the year of 2024 is a presidential election year will likely result in barriers for this bill to pass to senate. HB 4746 may need to be reintroduced from the other side of the committee. This means it could be reintroduced as a democratic senate bill and it will need bipartisan support to move the bill. If the senate passes the bill, then the house is likely to pass the bill. HB 4746 is taught to have great support from local and state Michigan mental health associations among other stakeholders; however, it is a republican partisan bill in a state where the house majority are democrats. It would be also of great interest to reintroduce the bill after the primaries, which is due November 2024.

Sharing Information

The dissemination of information is a significant and valuable portion of this policy analysis because the information contained in this project must be shared with stakeholders. For this analysis, a briefing paper will be provided to Michigan State University's Institute for Public Policy and Social Research (ISPPR) for distribution to their intended audience. Also, a PowerPoint presentation will be developed to be presented to Michigan State University.

Results of this project policy analysis will be disseminated by sharing the results with key stakeholders. This includes stakeholders that served as pivotal resources contributing to the development of this project, state and local community health organizations, professional organizations, MMHDC, state representatives, senators, and federal agencies. Information can be disseminated through community and professional organizations such as the Community Mental Health Association in Michigan (CMHA), National Alliance on Mental Illness (NAMI), American Psychiatric Nurses Association (APNA), Association of Psychiatric Nurse Mental

Health Nurse Practitioners (aPMHNP). It is essential that community mental health associations and professional organizations are knowledgeable about the existence of HB 4746, the meaning of this bill for their communities and profession, and the policy analysis results of this project that identified HB 4746 as a priority bill that is highly recommended to be enacted by Michigan legislators.

Dissemination of information includes synthesizing a background summary paper on the prioritized policy with data related to public health impact and economic and budgetary impact. It is also imperative to communicate through policy briefs with Michigan legislators Representative Tim Walberg, Senator Debbie Stabenow, Senator Gary Peters to discuss HB 4746, the meaning of the policy, the health impact to their constituents, financial and budgetary impact. The propagation of information is a significant step of this policy analysis.

Conduct Additional Analysis

The CDC Policy Analytical Framework denotes conducting additional steps if the current policy recommendation is not prioritized (CDC, 2013). This policy analysis project has prioritized HB 4746 as a strong policy recommendation to Michigan legislators to enact. After utilizing the CDC Policy Analysis Framework (CDC, 2013), HB 4746 scored high on positive significance to Michigan population health.

Timeline

This policy analysis project timeline began in May 2023, and ended in April 2024. The timeline of this project included several activities and steps guided by the CDC Policy analysis Framework (CDC, 2013). Please refer to Table 3 for this project's timeline. For the policy audiences, a plan to request a meeting with Michigan policymakers considering the current legislation to discuss this work will take place after this analysis has been completed.

Conclusion

HB 4746 was introduced and sponsored by Senator Doni Steele [R] (Michigan Legislature, 2023). This bill has not yet been passed by the house nor the senate as of January 31, 2024. The next step for HB 4746 to move forward is to be approved by the house, which would then be evaluated by the senate. If both the house and senate pass HB 4746, then it becomes a house enrolled bill enacted by both houses of the legislature. As previously discussed, HB 4746 is a partisan republican bill introduced and sponsored by representative Donni Steele [R], cosponsored by Representative Mike Harris [R], Representative Mark Tisdel [R], Representative Tom Khun [R], and Representative Brian BeGo [R]. The state of Michigan is composed of democratic bodies, such as democratic governor, secretary of estate, attorney general, and both chambers of the state legislature. This project speculates that the fact that the sponsor and cosponsors of HB 4746 are [R] and that the state is primarily composed of democratic legislators (democratic party governorship and democratic majority in both chambers of the estate legislature) may be a barrier for this bill to be passed to the senate. It may be necessary that the house and senate be debriefed by health policy advocates such as NPs and PAs on HB 4746 significance to the health of their Michigan constituents so that HB 4746 has a chance to move forward toward enactment. Another possibility is that HB 4746 may need to be reintroduced and co-sponsored by democratic legislators, becoming a bipartisan bill. This would require the current HB sponsor and co-sponsors to discuss which democratic representatives/legislators should be approached to discuss if the bill would be supported by democratic legislators. At this point, this policy project believes that the best chance for HB 4746 to be enacted would be for the bill to be reintroduced as a bipartisan bill. This means that democratic legislators would need to support and sponsor/co-sponsor the bill among the republican legislators.

References

Ballotpedia. (2024). Party control of Michigan state government. https://ballotpedia.org/Party_control_of_Michigan_state_government

Bonfine, N., & Nadler, N. (2019). *The perceived impact of sequential intercept mapping on communities collaborating to address adults with mental illness in the criminal justice system*. *Administration and Policy in Mental Health and Mental Health Service Research, 46*(5), 569–579. https://doi.org/10.1007/s10488-019-00936-z

Center for Behavioral Health and Justice. (2020). *Assisted outpatient treatment*. https://behaviorhealthjustice.wayne.edu/aot

Centers for Disease Control and Prevention (CDC). (2013). *CDC policy analytical framework.* https://www.cdc.gov/policy/opaph/process/docs/CDCPolicyAnalyticalFramework.pdf

Egart, Emily B. (2024). *The criminalization of mental illness and substance use disorder: addressing the void between the healthcare and criminal justice systems. Mitchell Hamline Law Review: Vol. 50: Iss. 1*, Article 1. https://open.mitchellhamline.edu/mhlr/vol50/iss1/1

Gearing, R. E., Washburn, M., Kovach, J. V., Olson, L., Lastovica, K., Clark, D., Robinson, A., Foo, S., Cunningham, K., Johnson, C., Rose, D., Renteria, A., Alkhadra, H., Brown, A., Collins, K., Gadison, C., Nelson, K., McCullum, D., Woods, K., Young, W. (2024). Evolution of the assisted outpatient treatment program through the application of a social work lens. *Research on Social Work Practice*, *34*(3), 256-264. https://doi.org/ 10.1177/10497315231199423.

Green, C., Estroff, S., Yarborough, B., Spofford, M., Solloway, M., Kitson, R., Perrin, N. (2014). *Directions for future patient-centered and comparative effectiveness research for people*

with serious mental illness. *Schizophrenia Bulletin*, *40*(Suppl_1), i-S94. https://doi-org.proxy2.cl.msu.edu/10.1093/schbul/sbt170

Heffernan, J., Pennay, A., Hughes, E., & Gray, R. (2023). *The association between the police, ambulance, clinician early response (PACER) model and involuntary detentions of people living with mental illness: A protocol for a retrospective observational study*. *Nursing Reports*, *13*(4), 1452. https://www.doi.org/10.3390/nursrep1304012

House Fiscal Agency. (2015). *Michigan mental health code: Revise assisted outpatient treatment program. https://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/htm/2015-HLA-4674-ED1CE89A.htm*

Mack, M. L. (2017). *Decriminalization of mental illness: Fixing a broken system*. Conference of State Court Administrators.

Mack, M. L. (2022). *Michigan's mental health code reforms*. http://texastechlawreview.org/wp-content/uploads/Mack.pdf

Michigan Courts Caseload. *Caseload reports.* (2020). https://www.courts.michigan.gov/4a5431/siteassets/reports/statistics/caseload/2020/statewide.pd

Michigan Courts. *Solving problems, saving lives.* (2022). https://www.courts.michigan.gov/4985c1/siteassets/problem-solving-courts/annual-reports/msc_psc_fy2022_final.pdf

Michigan Health and Human Services. (n.d.). *Mental health diversion council.* https://www.michigan.gov/mdhhs/keep-mi-healthy/mentalhealth/mhdc

Michigan Health and Human Services. (n.d.). *Michigan's vision for improving physical and behavioral health integration through information sharing*. https://www.michigan.gov-/media/Project/Websites/mdhhs/Folder3/Folder42/Folder2/Folder14/2/Folder1/ Folder

242/2-Pager_on_Sharing_Behavioral_Health_Information.pdf?rev=e561f7bf93314e64bb049c2235fe945f

Michigan Legislature. (2023). *House bill 4746*. https://www.legislature.mi.gov/documents/2023-2024/billintroduced/House/pdf/2023-HIB-4746.pdf

Michigan Legislature. (2023). *House bill 4748*. http://www.legislature.mi.gov/documents/2023-2024/billintroduced/House/pdf/2023-HIB-4748.pdf

Michigan Legislature. (2023). *Mental health code: 330.1206a, section 206a, mediation; notification of rights; funding; mediator and mediation requirements; report; "recording" defined.* https://www.legislature.mi.gov/(S(s4ddghu0r2y5xvtjtdwh0unv))/mileg.aspx?page=getObject&objectName=mcl-330-1206a

Michigan Legislature. (2023.). *Senate bills 637 and 638: Summary as enacted*. https://www.legislature.mi.gov/documents/2021-2022/billanalysis/Senate/htm/2021-SFA-0637-N.htm

Michigan Legislature. (2023). *Mental health code: 330.1461, section 461, Testimony deposition of physician or psychologist required*. http://www.legislature.mi.gov/(S(aulge2fptfdelngovkonbxgn))/mileg.aspx?page=GetMCLDocument&objectname=mcl-330-1461#:~:text=Sec.,written%20deposition%20at%20the%20hearing.

Michigan Legislature. (2023). *Mental health code: 330.1207, section 207, Diversion from jail incarceration*. https://www.legislature.mi.gov/documents/mcl/pdf/mcl-chap330.pdf

Myers, N., Hutnyan, M., Wright, G., Lee, G., Woodward, P., Wilkey, J., Young, W., Bromley, E. (2022). *Lessons in slow engagement from staff and administrators at a prebooking jail*

diversion program. *Psychiatric Services*, *73*(10), 1117–1122. https://doi.org/10.1176/appi.ps.202100317. PMID: 35414189.

Scott-Hayward, C. S. (2017). *Rethinking federal diversion: The rise of specialized criminal courts*. *Berkeley Journal of Criminal Law*, *22*(2), 47-110.

Stepping Up. (2023). *Discover local strategies*. https://stepuptogether.org/explore/discover-local-strategies/

Substance Abuse and Mental Health Services Administration (SAMHSA). (n.d.). D*ata collection across the Sequential Intercept Model: Essential measures*. https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/data_across_the_sim.pdf

Substance Abuse and Mental Health Services Administration (SAMHSA). (2023). *Homelessness program and resources: Reflecting on JFK's legacy on community-based care*. https://www.samhsa.gov/homelessness-programs-resources/hpr-resources/jfks-legacy - community-based-care

Tartaro, C. (2015). *An evaluation of the effects of jail diversion and reentry for mentally ill offenders*. *Journal of Offender Rehabilitation*, *54*(2), 85.

Treatment Advocacy Center. (2018). *Grading the states: An analysis of United States psychiatric treatment laws.* https://www.treatmentadvocacycenter.org/storage/documents/grading-the-states.pdf

Treatment Advocacy Center. (2018). Our history. https://www.treatmentadvocacycenter.org/about-us/our-history

Waters, A. K., Mercier, M. C., Disbennett, M., Ziaii, S., Cuddeback, G. S., Velázquez, T., & Van Deinse, T. B. (2023). *Identifying multilevel community supervision challenges to inform diversion approaches for people with mental illnesses. Journal of Contemporary Criminal Justice, 39*(4), 513-536. https://doi.org/10.1177/10439862231189418

Yohanna, D. (2013). *Deinstitutionalization of people with mental illness : Causes and consequences. Virtual Mentor. 2013;15*(10):886-891. doi:10.1001/virtualmentor.2013.15.10.mhst1-1310. https://journalofethics.ama-assn.org/article/deinstitutionalization-people-mental-illness-causes-and-consequences/2013-10

APPENDIX A

Table 1

Domain 2 Step 2A: Describe Policy Options

Framing Questions
• What is the policy lever – is it legislative, administrative, regulatory, other? • What level of government or institution will implement? • How does the policy work/operate? (e.g. is it mandatory?) Will enforcement be necessary? How is it funded? Who is responsible for administering the police? • What are the objectives of the police? What is the legal landscaping surrounding the police (e.g. court rulings, constitutionality)? • What is the historical context (e.g. has the policy been debated previously)? • What are the experiences of other jurisdictions? • What is the value-added to the policy? • What are the expected short, intermediate, and long-term outcomes? • What might be the unintended positive and negative consequences of the policy?

Criteria	Questions

Public Health Impact: **Potential for the policy to impact risk factors, quality of life, disparities, morbidity, and mortality**	• How does the policy address the problem or issue (e.g., increase access, protect from exposure)? • What is the magnitude, reach, and distribution of benefit and burden (including impact on risk factor, quality of life, morbidity, and mortality)? What population will benefit, how much, and when? What population will be negatively impacted, how much, when? • Will the policy impact health disparities/health equity? How? • Are there gaps in data/evidence-base?
Feasibility: **Likelihood that the policy can be successfully adopted and implemented**	**Political** • What are the current political forces, including political history, environment, and police debate? • Who are the stakeholders, including supporters and opponents? What are their interests and values? • What are the potential social, educational, and cultural perspectives associated with the policy option (e.g. lack of knowledge, fear of change, force of habit)? • What are the potential impacts of the policy on other sectors and high priority issues (e.g. sustainability, economic impact)? **Operational** • What are the resources, capacity, and technical needs developing, enacting, and implementing the policy? • How much time is needed for the policy to be enacted, implemented, and enforced? • How scalable, flexible, and transferable is the policy?
Economic and Budgetary Impacts:	**Budget**

Comparison of the costs to enact, implement, and enforce the policy with the value of the benefits	• What are the costs and benefits associated with the policy, from a budgetary perspective? (e.g., for public (federal, state, local) and private entities to enact, implement and enforce the policy)? **Economic** • How do costs compare to benefits? (e.g., cost-savings, costs averted, return on investments, cost effectiveness, cost-benefit analysis, etc.)? • How are costs and benefits distributed (e.g., for individuals, businesses, government)? • What is the timeline for costs and benefits? • What are the gaps in the data/evidence-base?

Description of Policy Options

Policy 1: HB 4746

Criteria	Questions

Public Health Impact	• House Bill 4746 (MCL 330.1461) proposes to amend section 461 to allow NPs and PAs working under a psychiatrist to exam and testify for the need for AOT involuntary treatment. House Bill 4746 would increase the outreach of court ordered AOT by utilizing the expertise and availability of these mental health providers who encounter many persons with mental illness in their practice (Michigan Legislature, 2023).
Feasibility	• House Bill 4746 was introduced by republican representatives in a democratic dual house chamber. Opponents of this bill include partisan conflicts, AMA, stakeholders against jail diversion initiatives. HB 4746 has a high likelihood to be enacted due to the shortage of psychiatrists and availability of NPs and PAs allowing for a greater outreach and timelier AOT (Mack, 2023).
Economic and Budgetary Impact	• House Bill 4746 has a low budgetary impact, and its costs are minimal compared to the potential millions of dollars of savings to the state of Michigan. Facilitating AOT due to the availability of more mental health providers costs less in comparison to incarceration, inpatient psychiatric stay, or ED visits.

Policy 2: HB 4748

Criteria	Questions
Public Health Impact	• HB 4748 is a bill to amend 1974 PA 258, entitles "Mental Health Code", (MCL 330.1001 to 330.2106) by adding section 469b. It adds language that permits the recipient, recipient's representative, or care provider to request mediation at any time, and without the need to seek court intervention (Michigan Compiled Laws, 2023). • Section 206a says mediation can be requested by the recipients or recipient's representative to dispute services or supports provided by a Community Mental Health Services Program (CMHSP) or services or supports provided a CMHSP contracted provider. It does not mention if a provider that does not participate in the CMHSPs can contact a Community Dispute Resolution Center (CDRPs) to request mediation. • Impact of policy in other sectors: HB 4748 has a high impact in legislature because it makes mediation in AOT an easier and more accessible process. Mediation fosters treatment compliance. HB 4748 makes mediation timelier because mediation can be done at CDRPs instead of seeking court interventions.

Criteria	Questions
Feasibility	• House Bill 4748 allows for mediation to be requested by the recipient, recipient's representative, other care provider at any time. It also makes it possible to use CDRPs instead of seeking court intervention. This makes the process faster with less barriers. • Stakeholders include persons with SMI and co-occurring SUD, their guardian, families, CMHSPs, courts, DHHS, MHC organizations and advocates, and the community. • Supporters include all above stakeholders. Opponents will be able to be identified if the HB does not move to senate.
Economic and Budgetary Impact	• House Bill 4748 was introduced on June 2023 by Reps. Tisdel, Harris, Kuhn, and Steele. • HB 4748 will make the AOT process and mediation more informative for recipients of AOT and their representatives to understand request for mediation is also available to be made at any time when receiving AOT. • Costs should be minimal because only adds language to legislature, mediation has been used in AOT, so this is not new in the process of AOT. Requires legislature written change with low dollars cost. • HB 4748 time to enact depends on the speed of the legislative process. HB 4748 was sponsored by Reps. Tisdel, Harris, Kuhn, and Steele; introduced on 6/2023 and has not yet reached senate. House and senate voting is ways to go and unpredictable time. The timeline for costs and benefits should be reasonable, this seems to be a low-cost bill to enact.

Policy 3: *Status Quo*

Criteria	Questions
Public Health Impact	• No changes. • Less outreach due to less providers.

	• Less accessibility to treatment • Less accessibility to plan of care through mediation. • Possibly less treatment compliance.
Feasibility	• No political conflicts. • No need for partisan support. • Easy to implement.
Economic and Budgetary Impact	• Low budget • No costs or savings. • Cost-effectiveness: low cost for no changes • Unknown benefit. There is no available data on cost-benefit analysis or cost-effectiveness analysis on HB 4746 nor HB 4748 if these bills were to be implemented in the entire state of Michigan.

Appendix B

Table 2

Policy Options Assessment Table

CRITERIA	*PUBLIC HEALTH IMPACT*	*FEASIBILITY*	*ECONOMIC AND BUDGETARY IMPACT*

Scoring Definitions	**Low:** small reach, effect size, and impact on disparate populations **Medium:** small reach with large effect size or large reach with small effect size **High:** large reach, effect size, and impact on disparate populations	**Low:** No/small likelihood of being enacted **Medium:** Moderate likelihood of being enacted **High:** High likelihood of being enacted	**Less favorable:** High costs to implement. **Favorable:** Moderate costs to implement **More favorable:** Low costs to implement	**Less favorable:** costs are high relative to benefits **Favorable:** costs are moderate relative to benefits (benefits justify costs) **More favorable:** costs are low relative to benefits
			BUDGET	***ECONOMIC***
Enactment of House Bill 4746	○ Low ○ Medium ● **High** Concerns about the amount or quality of data? (Yes / **No**)	○ Low ○ Medium ● **High** Concerns about the amount or quality of data? (Yes / **No**)	○ Less favorable ○ Neutral ● **More favorable** Concerns about the amount or quality of data? (Yes / **No**)	○ Less favorable ○ Neutral ● **More favorable** Concerns about the amount or quality of data? (Yes / **No**)
Enactment of House Bill 4748	○ Low ● **Medium** ○ High Concerns about the amount or quality of data? (Yes / **No**)	○ Low ○ Medium ● **High** Concerns about the amount or quality of data? (Yes / **No**)	○ Less favorable ○ Neutral ● **More favorable** Concerns about the amount or quality of data? (Yes / **No**)	○ Less favorable ○ Neutral ● **More favorable** Concerns about the amount or quality of data? (Yes / **No**)
"*Status Quo*" No change in policy	○ Low ○ Medium ● **High**	○ Low ○ Medium ● **High**	○ Less favorable ○ Neutral ● **More favorable**	○ Less favorable ○ Neutral ● **More favorable**

	Concerns about the amount or quality of data? (**Yes** / No)	Concerns about the amount or quality of data? (**Yes** / No)	Concerns about the amount or quality of data? (**Yes** / No)	Concerns about the amount or quality of data? (**Yes** / No)

The above table was adapted from the CDC's Policy Analytical Framework and measures were adjusted to fit within the context of this specific policy analysis (CDC, 2013).

Appendix C

Table 3

Simplified Project Timeline

Table 3: Project Timeline	**Month**											
Activity	1	2	3	4	5	6	7	8	9	10	11	12
Data acquisition and cleaning												
Policy analyses- Phase I (Bardach's steps 1-3)/ CDC Domain's 1-2A			R									
Policy analyses- Phase II (Bardach's steps 4-8)/ CDC Domain 2B-3									R			
Research seminar presentation for College of Nursing												
Manuscript preparation											P	
Blog post/news story												
Abstract submission and conference presentation: MNRS												
IPPSR briefing paper preparation											R	
R: Denotes submission of a brief updates report on progress to IPPSR. P: Denotes submission of paper.												

Appendix D

Table 4

Literature Review Table

Title/Author	Journal/Organization	Country	Type	Data Source	Characteristics/Factors related to Jail Diversion	Effect on Policy Process
Michigan Legislature. Civil admissions and discharge procedures: Mental illness Michigan Legislature, (2023)	Michigan Legislature	United States-Michigan	Mental Health Policy Report-Grey literature	Government documents	-MMHC section 401 person requiring treatment for court-ordered AOT. -MMHC section 461 testimony or deposition of physician or psychologist required. -Legislative gap: section 461 determines only physician, psychiatrist or psychologist to exam and/or testify in AOT or hospitalization with AOT.	Yes
House Bill 4746 Michigan Legislature, (2023)	Michigan Legislature	United States-Michigan	Mental Health Policy Report-Grey literature	Government documents	-HB 4746 is a bill to amend the 1974 PA 258 amend section 461 (MCL 330.1461). -Section 461 amendment proposes that certified nurse practitioners or physician assistants working under the supervision of a psychiatrist can examine and testify in court that a person with SMI requires AOT. -Legislative enactment of HB 4746 would allow for greater outreach and evaluation of people with SMI including rural Michigan.	Yes
Michigan Legislature. Mediation; notification of rights.	Michigan Legislature	United States-Michigan	Mental Health Policy Report-	Government documents	-MMHC section 206a mediation and notification of rights. -The community mental health services program or provider shall tell the individual	Yes

Michigan Legislature, (2023)			Grey literature		receiving services or their representative of the right of requesting mediation regarding treatment services at the time services are initiated and at least yearly after services were initiated.	
House Bill 4748 Michigan Legislature Michigan Legislature, (2023)	Michigan Legislature	United States-Michigan	Mental Health Policy Report-Grey literature	Government documents	-HB 4748 adds section 469b to expand on the recipient's right to request mediation any time after AOT is initiated. It allows for mediation to occur throughout the AOT process. -Recipient of services or its representative can request mediation when disagrees with treatment, fostering an open line of communication between recipient of services and service providers.	Yes
Michigan Legislature. Senate Bill 637 and 638 Michigan Legislature, (2023)	Michigan Legislature	United States-Michigan	Mental Health Policy Report-Grey literature	Government documents	-SB 638 amended the mental health code to make grants available to local units to implement or expand behavioral health programs for jail diversion, favoring rural communities. -SB 637 amended the mental health code to make grants available to local units to establish or expand mobile crisis intervention services, giving priority to communities that have depicted a commitment to best practices. -SB 637 and 638 expand accessibility to funds per above mentioned criteria. Community leaders can invest in their local mental health community jail diversion programs.	Yes
Centers for Disease Control and Prevention. CDC's Policy Analytical Framework	Centers for Disease Control and Prevention	United States	Framework	CDC Framework	-CDC policy process provides public health practitioners with a summary of the domains of the CDC policy process.	Yes

CDC, (2013)					-The goal is to understand what policy means the process that is conceptualized, developed, adopted, and evaluated. -Policy is a significant way to foster the health of populations.	
Directions for future patient-centered and comparative effectiveness research for people with serious mental illness in a learning mental health care system Green et al., (2014)	Journal/Schizophrenia Bulletin	United States	Journal Article	Academic Journals/ Articles	-To improve the service care quality provided to people with SMI, electronic health record and health information technology system must be in place. -Eletronic health system technology should be used at every patient encounter, and it should provide audits and feedback procedures. -Mental health electronic systems need feedback methods based on evidence-based evolving patient-centered outcomes that are automatically linked to services, processes, and structures.	Yes
Grading the States: An analysis of United States Involuntary Treatment Laws Treatment Advocacy Center, (2018)	Treatment Advocacy Center	United States	Report	Report on AOT by State	-Grading the states examined each United States' state and their involuntary commitment laws. Involuntary treatment in the United States has three distinct components: emergency psychiatric evaluation, inpatient commitment, and AOT (Treatment Advocacy Center, 2018). -The criteria used pertained to in case a mentally ill individual needs involuntary evaluation and treatment, would that occur in a timely manner, for sufficient duration, and in a program that provides with long-term stabilization. -Grading the States evaluation highlighted language found in civil commitment statutes	Yes

					that is most likely to promote timely treatment with AOT and prevent barriers. -Michigan and Wisconsin received Grade A. -Massachusetts, Maryland and Connecticut do not have statutory authority for AOT (Treatment Advocacy Center, 2018).	
Identifying multilevel community supervision challenges to inform diversion approaches for people with mental illnesses. Waters et al., (2023)	Journal of Contemporary Criminal Justice	United States	Article	Academic Journals/ Articles	-Overrepresentation of mentally ill people in the criminal justice system. Mental illness occurs at higher rates among people in the criminal legal system when compared to the general population with 16% to 27% individuals in community supervision, 41% in jails, and 56% in state prisons (Waters et al., 2023).	Yes
Rethinking criminal diversion: The rise of specialized courts. Scott, (2017)	Berkeley Journal of Criminal Law	United States	Journal	Academic Journals/ Articles	-Specialized courts have been used for jail diversion of non-violent offenders. The mail purpose of front-end specialized criminal courts is to reduce the number of people sentenced to terms of imprisonment. A possible solution to the over-incarceration crisis (Scott, 2017).	Yes
An evaluation of the effects of jail diversion and reentry for mentally ill offenders. Tartaro, (2015)	Journal of Offender Rehabilitation	United States	Journal	Academic Journals/ Articles	-The deinstitutionalization movement that happened in the latter half of the 20th century led to the status of people with mental illness and substance use disorder being managed by the criminal justice system (Tartaro, 2015).	Yes
The perceived impact of sequential intercept mapping on communities collaborating to address adults with mental illness	Adm Policy Mental Health	United States	Qualitative Study	Academic Journals/ Articles	-Sequential intercept mapping allows for community stakeholders to evaluate program initiatives and policy gaps (Bonfine & Nadler, 2019).	Yes

on the criminal justice system. Bonfine & Nadler, (2019)						
Lessons in slow engagement from staff and administrators at a prebooking jail diversion program. Myers et al., (2022)	Psychiatric Services	United States	Journal	Academic Journals/ Articles	-Persons with mental illness are twice as likely to be incarcerated for the same offenses as people in the general population. Jail diversion programs that redirect mentally ill persons to community mental health treatment can significantly decrease the cost of care to savings of at least one billion dollars per year in the United States (Myers et al., 2022).	Yes
Decriminalization of mental illness: Fixing a broken system. Mack, (2017)	Conference of State Court Administrators	United States	Mental Health Policy Report- Grey literature	Government documents	-Recommendations on mental health issues and the law. Encourage legislators to have mental health laws based on a standard of capacity rather than conduct for ordering involuntary AOT. Promote AOT. -Invest in law enforcement crisis intervention team (CIT) training. -State court administrators should encourage local judges to engage local stakeholders to develop plans and protocols for their jurisdiction. -Provide data to show to legislators that financial fundings on community mental health services and jail diversion initiatives are less costly than imprisonment (Mack, 2017).	Yes
Michigan mental health code reforms. Mack, (2022)	Conference of State Court Administrators	United States	Mental Health Policy Report-	Government documents, Article	-Mental health laws that promote early intervention with AOT will not work without intricate collaboration among stakeholders led by courts.	Yes

			Grey literature		-Courts are best positioned as facilitators and to bring stakeholders together (Mack, 2022).	
Homelessness program and resources: Reflecting on JFK's legacy on community-based care SAMHSA, (2023)	Substance Abuse and Mental Health Services Administration	United States	Mental Health Policy Report- Grey literature	Government documents	-The Community Health Act of 1963 caused the closure of asylums. This Act focused on mental health prevention, treatment, and rehabilitation in the community shifting away from care in psychiatric hospitals. The 1963 Act plan was that federal funds would create community mental health centers in states (SAMHSA, 2023).	Yes
The association between the police, ambulance, clinician early response (PACER) model and involuntary detentions of people living with mental illness: A protocol for a retrospective observational study. Heffernan et al., (2023)	Systematic Review	Australia	Observational Study, Systematic Review	Academic Journals - Systematic Review	-Estimating the globalization of mental illness. -Systematic review of 174 surveys from 63 countries reported global prevalence of mental illness from 1980 to 2013. -Approximately 18% of adults depicted high prevalence for SMI. -Lifetime burden for mental illness was approximately 29%.	Yes
Deinstitutionalization of people with mental illness: Causes and consequences. Yohanna, (2013)	American Medical Association	United States	Article	Academic Journals/ Articles	-Deinstitutionalization movement main triggers. -Asylums are places to seek refuge. -Prisons are the new asylums. -The percentage of people with SMI in prisons is estimated to be 16% of the total population. -U.S. population in prisons and jails totaled 2,361.123 in 2017, about 378,000 incarcerated people had mental illness (Yohanna, 2013).	Yes
The criminalization of mental illness and substance use disorder: Addressing the void	Mitchell Hamline Law Review	United States	Academic Journal	Academic Journals/ Articles	-1955 to 1976, state psychiatric hospitals decreased patients with SMI from 559,000 to 171,000.	Yes

between the healthcare and criminal justice systems. Egart, (2024)					-1980 psychiatric institutions cared for less than 100,000 people with SMI. -The economic incentive from federal government to states triggered the deinstitutionalization movement (Egart, 2024).	
Evolution of the assisted outpatient treatment program through the application of a social work lens. Gearing et al., (2024)	Sage	United States	Academic Journal	Academic Journals/ Articles	-SMI is specified as any mental, behavioral, or emotional disorder that seriously impairs functioning over multiple spheres and impacts one or more major life activities (Gearing et al., 2024). -Estimates of SMI cost per person is $1.85 million per person (Gearing et al., 2024). This is a significant cost to the community. This does not account for costs related to incarceration or emergency care (Gearing et al., 2024).	