

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0645S.01I
 Bill No.: SB 74
 Subject: Transportation; Crimes and Punishment; Judges; Drugs and Controlled Substances; Alcohol; Department of Revenue
 Type: Original
 Date: February 17, 2023

Bill Summary: This proposal creates a DWI Diversion Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	(Unknown, could exceed \$515,961)	(Unknown, could exceed \$177,946)	(Unknown, could exceed \$180,569)
Total Estimated Net Effect on General Revenue*	(Unknown, could exceed \$515,961)	(Unknown, could exceed \$177,946)	(Unknown, could exceed \$180,569)

* **Oversight** notes DOR would have a one-time IT cost of \$269,222 for 2,833.92 hours of work at \$95 per hour in FY 2024.

Oversight also notes §557.520.6(3) requires that a person in the program to pay a fee, as determined by DOR, that is sufficient to cover the costs of administration of this section.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** assume the following:

Administrative Impact

The DOR does not have in place a diversion program as this language is proposing, therefore these would be new processes for the DOR. Programming would be required to develop a new sub-system in the current Missouri Driver License (MODL) database to enter court ordered diversion information received from the prosecuting attorney, and notifying the program participant of their compliance requirements through system-generated notices.

This proposed language is requiring the DOR to be notified of violations from the ignition interlock device for program participants. The DOR does not currently receive or maintain record of violations. Currently, the DOR requires the approved Missouri manufacturers to track and maintain this data and only certify a driver once they have successfully completed the required monitoring time-period. These legislative changes would require the DOR to track and interpret this data specifically related to this diversion program. There are six approved manufactures in Missouri. Multiple new electronic file exchanges to each manufacturer would need to be developed to exchange data daily between the DOR and each manufacturer. This would require an additional file reporting violations to be developed and electronically exchanged for each approved manufacturer. Multiple reports would need to be generated to ensure the integrity of the data and meet the current DOR auditing processes.

If the criminal case has been reinstated, the DOR will need to evaluate the conviction as a second –time offender. This would cause the point value related to the conviction to increase from 8 points to 12 points and add an IID installation to their reinstatement requirements. This also would require changes made to the five and ten-year denial evaluation routine.

In FY22, the DOR received 29,901 DWI reports making the potential for offenders enrolled into this diversion program to be extensive. They assume that if 50% of offenders would be accepted in to this new program, the DOR would plan to receive approximately 14,951 court orders notifying enrollment. DOR would require a new team of personnel to receive these enrollments, track and process the compliance paperwork, manage the vendor relationships with IID changes, and develop/implement a continuous monitoring process for any device violations and court actions for program participants.

A customer service representative can process 224 court-ordered documents per day. The DOR anticipates receiving approximately 59 each day, which would require one additional staff member for processing. In addition to a processing FTE, DOR anticipates a need for increased

support at the call center (level 1) support and would require an additional FTE to answer level 2 support inquiries and correspondence related only to this specific program.

The DOR has no statistics available to anticipate the number of staff required to review and interpret the new violation file exchanges, therefore, additional FTEs may be requested through the appropriations process. These positions would require a more robust skill set including knowledge of court and administrative process, customer and vendor relationship management, and quality assurance tracking and reporting.

Associate Customer Service Rep. (\$2,600 month X 3) =
FY24 = \$ 78,000 (10 months)
FY25 = \$93,600
FY26 = \$93,600

To implement the proposed legislation, the DOR will be required to:

- Complete business requirements and design documents to modify the Missouri Driver License System (MODL)
- Complete programming and user acceptance testing for the new diversion program for driving privileges, IID violations and tracking of the violations, dismissed charges of the program, criminal cases imposed and their penalties on the drivers.
- Testing with the ignition interlock manufacturers of the new files exchanges
- MODL generated notices
- CTG programming
- Conviction routine evaluation
- Update policies, procedures, reports, forms, and the DOR website.
- Training for employees

FY 2024 – Driver License Bureau (testing of forms and website updates)
Research/Data Analyst 1300 hrs. @ \$25.63 per hr. = \$33,319
Research/Data Assistant 1300 hrs. @ \$17.20 per hr. = \$22,360
Administrative Manager 1000 hrs. @ \$27.82per hr. = \$27,820
Total = \$83,499

FY 2024 – Personnel Services Bureau (forms and website updates)
Associate Research/Data Analyst 336 hrs. @ \$20.54 per hr. = \$ 6,901

Total= \$90,400

The fiscal impact estimate above is based on changes in the current MO Driver License System environment. The DOR is pursuing an upgraded Motor Vehicle and Driver Licensing system and to reduce duplicative development and reduce cost, the sponsor may want to consider a delayed effective date that would allow the proposed changes be developed within the new proposed environment. The total fiscal potential impact to develop changes in the proposed system in addition to the current environment is unknown.

The implementation of this legislation will be dependent on the updating and integration of the DOR's Motor Vehicle and Driver Licensing software system. The cost associated with the DOR's Motor Vehicle and Drivers Licensing system update and integration could be up to \$105 million. While a funding source is currently in place and has collected approximately \$15 million, DOR is still three to five years away from collecting the needed funds, selecting a vendor, and implementing the complete software system integration. If the DOR does not receive sufficient funding for this system integration project, additional funding will be requested through the appropriations process.

Administrative Impact GCO

DOR's General Counsel's Office (GCO) notes if the increase is more significant than anticipated or additional laws are passed that impact the GCO, additional FTE or Attorneys may be requested through the appropriations process. It is unclear how many individuals/attorneys will inquire through GCO regarding client questions regarding installation/suspension of the IID or how many individuals will appeal to the Circuit Court once their IID has been cancelled or suspended.

Oversight notes DOR assumes the need for a one-time IT cost of \$269,222 for 2,833.92 hours of work at \$95 per hour in FY 2024.

Oversight is unclear on the timeframe for updating DOR's Motor Vehicle and Driver Licensing software system and will, therefore, reflect costs estimates as provided by DOR as if the changes were implemented starting in FY24.

Oversight notes §557.520.6(3) requires the a person in the program to pay a fee, as determined by DOR, that is sufficient to cover the costs of administration of this section. Oversight will assume an unknown amount of revenue from this provision.

Officials from the **Office of State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. During FY 2017 through FY 2021, the average number of alcohol related case filings 18,680 potentially could be impacted. Any significant changes will be reflected in future budget requests.

Oversight has requested additional information from the Office of the State Courts Administrator regarding if this proposal in some aspects is a duplication of the courts current DWI treatment program. Upon the receipt of this information, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note if needed.

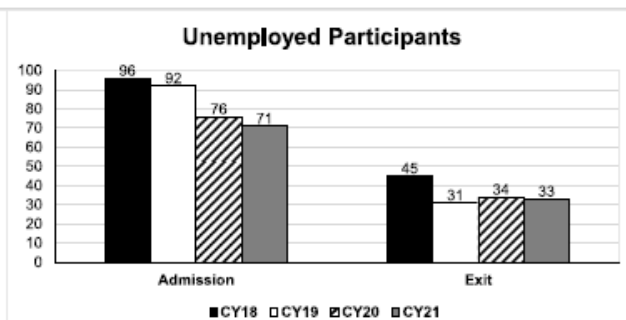
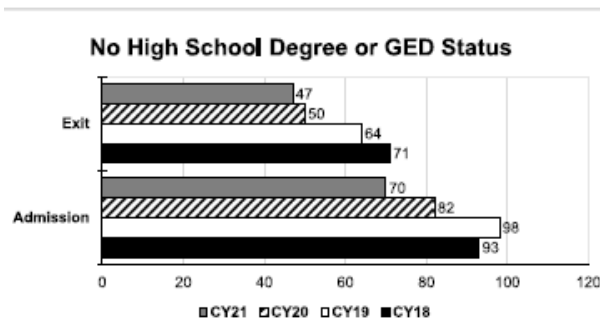
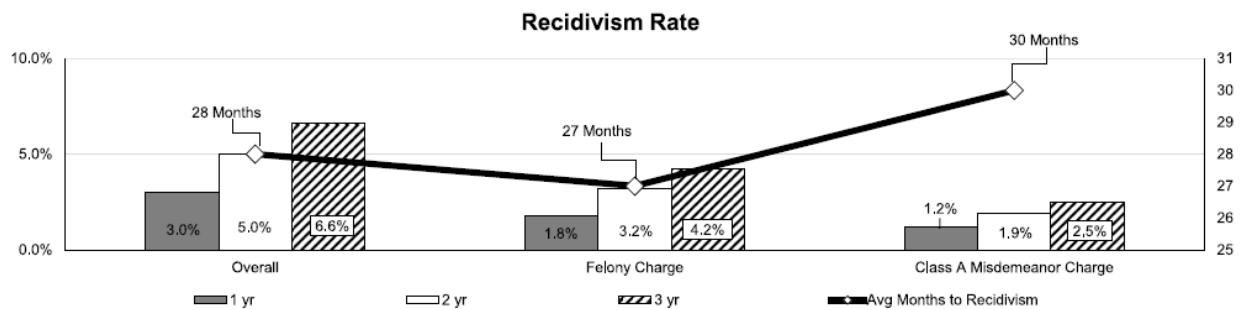
Oversight notes information from OSCA’s DWI Treatment Court Program according to their FY24 Budget Book Request:

DWI Treatment Court Activity

DWI court focuses on addressing the substance use disorder or co-occurring disorder of defendants who have pleaded guilty to or have been found guilty of driving while intoxicated or driving with excessive blood alcohol content.

<u>PROGRAM STATISTICS</u>	<u>CY 21</u>	<u>CY20</u>	<u>CY19</u>	<u>CY18</u>
Participants Served	956	966	1,194	1,284
Programs	23	23	23	22
Community Service Hours Performed	60,790	80,829	81,088	57,035
Retention Rate	N/A	94%	93%	91%
Graduation Rate	88%	92%	89%	82%

Source: OSCA FY24 Budget Request



If the DWI diversion program is a separate program from the current DWI Treatment Court Program, **Oversight** assumes OSCA’s case work could increase with the additional work that goes along with the dismissal of cases or holding additional hearings outlined in subsections 8 and 9 of this proposal. Therefore, Oversight will reflect a \$0 to unknown cost for this proposal for OSCA.

Officials from the **Department of Public Safety’s Office of the Director & Missouri Highway Patrol**, the **Missouri Department of Transportation**, **Jefferson City**, **Kansas City**, the **City of O’Fallon**, the **City of Springfield**, the **Phelps County Sheriff’s Department**, the **Branson Police Department**, the **Kansas City Police Department** and the **St. Joseph Police Department** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Income – DOR §557.520.6(3) – program participants are required to pay a fee to participate</u>	Unknown	Unknown	Unknown
<u>Costs – DOR</u>			
Personal Service	(\$78,000)	(\$95,472)	(\$97,381)
Fringe Benefits	(\$68,145)	(\$82,474)	(\$83,188)
One-time Equipment Costs	(\$10,194)	\$0	\$0
Administrative Costs	(\$90,400)	\$0	\$0
ITSD Costs	(\$269,222)	\$0	\$0
Total Costs – DOR	(\$515,961)	(\$177,946)	(\$180,569)
FTE Change – DOR	3 FTE	3 FTE	3 FTE
<u>Costs – OSCA - potential increase in additional case work from this program</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown, could exceed \$515,961)</u>	<u>(Unknown, could exceed \$177,946)</u>	<u>(Unknown, could exceed \$180,569)</u>
Estimated Net FTE Change for General Revenue	3 FTE	3 FTE	3 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses who install a certified ignition interlock system could be impacted from this proposal.

FISCAL DESCRIPTION

This act creates a DWI diversion program which allows a judge presiding over a criminal case to divert the case to a DWI diversion program if the defendant meets the following criteria:

- The defendant has not previously been convicted of an intoxicated-related traffic offense;
- The defendant is not currently enrolled in and has not in the previous 10 years completed another diversion program;
- The defendant does not hold a commercial driver's license; and
- The offense did not occur while operating a commercial vehicle.

The court may continue the diverted case for a period of up to 2 years and order the defendant to comply with terms and conditions of the program as determined by the court. As part of the program requirements, the court shall require installation of an ignition interlock device for a period of not less than 1 year. The court shall notify the defendant that he or she is required to install an ignition interlock device as well as notify the defendant of any other requirements of the program. Any person required to install an ignition interlock device shall be subject to penalties as provided under the law.

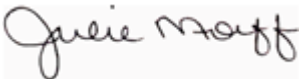
Additionally, the Department of Revenue shall inform the defendant of the requirements of the DWI diversion program and shall keep records of the installation of any ignition interlock devices. Any person participating in the program shall submit a verification of installation and pay a fee as provided in the act. Any certified ignition interlock device provider shall inform the Department of any tampering of the device as provided in the act.

Finally, after the completion of the DWI diversion program and if the defendant has complied with all the imposed terms and conditions, the court shall dismiss the criminal case against the defendant, record the dismissal, and transmit the record to the Missouri Uniform Law Enforcement System (MULES). If the defendant does not comply with the terms of the program, the court shall hold a hearing to determine whether the criminal proceedings should be reinstated.

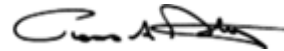
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Department of Public Safety
 Office of the Director
 Missouri Highway Patrol
Missouri Department of Transportation
Jefferson City
Kansas City
City of O'Fallon
City of Springfield
Phelps County Sheriff's Department
Branson Police Department
Kansas City Police Department
St. Joseph Police Department
Office of the State Courts Administrator



Julie Morff
Director
February 17, 2023



Ross Strobe
Assistant Director
February 17, 2023