

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0645S.04C
Bill No.: SCS for SB 74
Subject: Transportation; Crimes and Punishment; Judges; Drugs and Controlled Substances; Alcohol; Department of Revenue
Type: Original
Date: March 30, 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 \$535,452)	(Unknown, could exceed \$177,946)	(Unknown, could exceed \$180,569)
Total Estimated Net Effect on General Revenue*	(Unknown, could exceed \$535,452)	(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 Other 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

Programming to the current Missouri Driver License (MODL) system would be extensive to enter court ordered diversion information received from the prosecuting or circuit 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 two (2) additional FTEs for call center inquiries.

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. @ \$27.82 per 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.

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 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.

In response to a previous version, officials from the **Office of State Courts Administrator (OSCA)** stated 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 notes the following response from OSCA regarding a potential duplication of their DWI treatment court program:

The DWI Treatment Courts use certified ignition interlock devices with Limited Driving Privileges. Once the participant is in compliance with Section 302.309, RSMo and has completed the required days in the program, the participant must file proof with the DOR that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device. The participant must have the required insurance on file and the court shall indicate the termination date of the privilege, which shall not be later than the end of the period of suspension or revocation.

It is not a duplication of programs as the bill calls the program a "diversion program" not a "treatment court" so Section 478.001, RSMo may not apply. Section 478.001, RSMo classifies DWI court as a treatment court focused on addressing the substance use disorder or co-occurring disorder of defendants who have pleaded guilty to or been found guilty of driving while intoxicated or driving with excessive blood alcohol content. Most DWI Court programs focus on felony DWI offenders, some involving crashes with victims.

Whereas the proposed bill states 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).

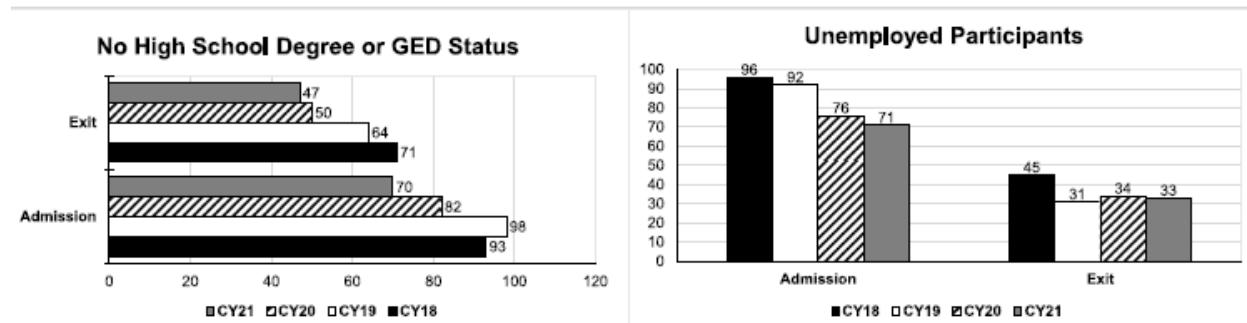
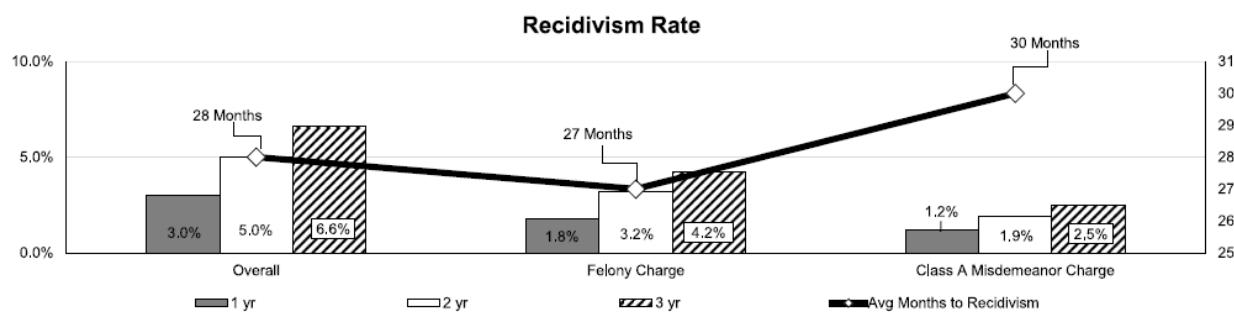
Oversight notes information from OSCA's DWI Treatment Court Program according to their FY24 Budget Book Request:

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.

PROGRAM STATISTICS	CY 21	CY20	CY19	CY18
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



Oversight assumes since the DWI diversion program is a separate program from the current DWI Treatment Court Program, 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**, the **Missouri Office of Prosecution Services**, the **Office of the State Public Defender**, the **City of Springfield**, the **Phelps County Sheriff's Department**, the **Branson Police Department**, the **Kansas City Police Department**, the **St. Joseph Police Department** and the **St. Louis County 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.

In response to a previous version, officials from **Jefferson City**, **Kansas City** and the **City of O'Fallon** each assumed 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.

FISCAL IMPACT – State Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
Costs – DOR			
Personal Service	(\$78,000)	(\$95,472)	(\$97,381)
Fringe Benefits	(\$68,145)	(\$82,474)	(\$83,188)
One-time Equipment Costs	(\$29,685)	\$0	\$0
Administrative Costs	(\$90,400)	\$0	\$0
ITSD Costs	(\$269,222)	\$0	\$0
Total Costs – DOR	(\$535,452)	(\$177,946)	(\$180,569)
FTE Change – DOR	3 FTE	3 FTE	3 FTE
Costs – OSCA - potential increase in additional case work from this program	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$Unknown, could exceed \$535,452)</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 prosecuting or circuit attorney 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;
- The offense did not occur while operating a commercial vehicle; and
- The offense did not result in the injury or death of another person.

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 prosecuting or circuit attorney. Any defendant who has a case continued pursuant to this act shall also have any proceeding relating to the suspension of his or her license continued by the Department of Revenue.

As part of the program requirements, the prosecuting or circuit attorney shall require installation of an ignition interlock device for a period of not less than 1 year and require the defendant to participate in a victim impact panel. 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 current law.

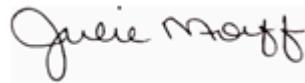
Additionally, the Department of Revenue shall inform the defendant of the requirements of the DWI diversion program and shall keep records of the installation of any ignition interlock devices. Any certified ignition interlock device provider shall inform the Department of any tampering of the device 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 central repository. The Department of Revenue shall also dismiss any proceeding to suspend the defendant's license. If the defendant does not comply with the terms of the program, the prosecuting or circuit attorney may file a motion to terminate the defendant from the diversion program and set the case on the next available criminal docket.

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
Office of the State Public Defender
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
St. Louis County Police Department
Missouri Office of Prosecution Services
Office of the State Courts Administrator



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