

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2828S.05C
 Bill No.: SCS for SB 1200
 Subject: Transportation; Crimes and Punishment; Judges; Drugs and Controlled Substances; Alcohol; Department of Revenue
 Type: Original
 Date: April 2, 2024

Bill Summary: This proposal creates a DWI Diversion Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	(Unknown, could exceed \$616,105)	(Unknown, could exceed \$203,082)	(Unknown, could exceed \$206,243)
Total Estimated Net Effect on General Revenue	(Unknown, could exceed \$616,105)	(Unknown, could exceed \$203,082)	(Unknown, could exceed \$206,243)

***Oversight** notes DOR would have a one-time IT cost of \$297,562 in FY 2025.

Oversight also notes §557.520.13 requires that a person in the program pay a fee that is based on a discounted schedule for offenders with income at or below 150% of the federal poverty level.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Highway Funds	(\$92,812)	(\$111,375)	(\$111,375)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$92,812)	(\$111,375)	(\$111,375)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	(\$30,938)	(\$37,125)	(\$37,125)

FISCAL ANALYSIS

ASSUMPTION

§557.520 – DWI Diversion Program

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

Administrative Impact – Motor Vehicle Bureau (MVB)

Extensive programming to the current Missouri Driver License (MODL) system would be required 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 currently five (5) approved manufacturers 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.

Any defendant who is found guilty of any intoxicated-related traffic offense and who has previously utilized the DWI diversion program, the DOR will evaluate the conviction as a second offense. This would cause the point value related to the conviction to increase from 8 points to 12 points and add an ignition interlock (IID) requirement for reinstatement. This also would require changes made to the five and ten-year denial evaluation routine.

In FY23, the DOR received 30,893 DWI reports making the potential for offenders enrolled into this diversion program to be extensive. If DOR assumes that 50% of offenders would be accepted into this new program, the DOR would plan to receive approximately 15,447 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. DOR anticipates receiving approximately 59 each day, which would require one additional staff member for processing.

Associate Customer Service Rep. (\$2,826 month)
FY25 = \$28,260 (10 months)
FY26 = \$33,912
FY27 = \$33,912

In addition to a processing FTE, the DOR anticipates the need for an additional FTE for call center inquires.

Customer Service Representative – Zone 3 (\$3,426 month)
FY25 = \$34,260 (10 months)
FY26 = \$41,112
FY27 = \$41,112

The DOR estimates a need for at least one FTE to oversee the implementation and management of this new program. This position 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.

The Telephone Information Office salary zone has changed since the last pay plan. The below amount is the updated salary amount for this position, and will be reflected on fiscal notes from here forward.

Customer Service Rep. (\$3,052 month)
FY25 = \$30,523 (10 months)
FY26 = \$36,627
FY27 = \$36,627

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 Department website.
- Update Code of Regulation

- Training for employees

FY 2025 – Driver License Bureau (testing of forms and website updates)
Research/Data Analyst 1300 hrs. @ \$28.89 per hr. = \$37,557
Research/Data Assistant 1300 hrs. @ \$19.38 per hr. = \$25,194
Administrative Manager 1000 hrs. @ \$31.36 per hr. = \$31,360
Total = \$94,111

FY 2025 – Strategy and Communications Office (forms and website updates)
Associate Research/Data Analyst 336 hrs. @ \$23.15 per hr. = \$ 7,778

The costs associated with these legislative changes may be outside of the current contract and identified programming work for DOR’s incoming integrated system. As such, the DOR has included the potential costs associated with making the changes to the integrated system by the DOR’s current vendor.

FY 2025 – Motor Vehicle and Driver Licensing Integrated System Vendor
Implementation Consultant 200 hrs. @ \$250 per hr. = \$50,000

Total= \$151,889

The fiscal impact estimated above is based on changes in the current DOR’s Motor Vehicle and Driver Licensing system environment. The implementation of this legislation will be coordinated with the integration of the DOR’s Motor Vehicle and Driver Licensing software system approved and passed by the general assembly in 2020 (Senate Bill 176). To avoid duplicative technology development and associated costs to the state, it is recommended a delayed effective date be added to this bill to correlate with the installation of the new system.

Revenue Impact

Previous fiscal note responses did not include the potential for a loss in reinstatement fees collected by the department. After further review, the department may see a loss in revenue generated due to not receiving first-time DWI convictions, resulting in an action that would require a reinstatement fee to be paid.

In FY22 the DOR generated 3,222 point suspensions for non CDL first time alcohol convictions.

In FY23 the DOR generated 3,299 point suspensions for no CDL first time alcohol convictions.

The reinstatement fee for a first-time alcohol conviction point suspension is \$45.00.

FY2025
\$148,500 Reinstatement fees for 3,300 point suspension actions
/ 12 Number of months in a year

\$ 12,375 Decrease in reinstatement fees collected monthly
x 10 Number of months in first year after bill passage
\$123,750 Decrease in reinstatement fees collected in first year of bill passage

FY2026

\$148,500 Reinstatement fees for 3,300 point suspension actions

Estimated potential decrease in reinstatement fees collected annually = \$148,500

Fees collected are distributed 75% Highway Fund (75% x \$148,500 = **\$111,375**), 15% Cities (15% x \$148,500 = **\$22,275**), and 10% Counties (10% x \$148,500 = **\$14,850**),

Administrative Impact GCO

GCO Anticipates:

If the increase is more significant than anticipated or additional laws are passed that impact the General Counsel's Office (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 \$297,562 for 2,833.92 hours of work at \$105 per hour in FY 2025.

Oversight notes §557.520.13 requires the person in the program to pay a fee that is based on a discounted schedule for offenders with income at or below 150% of the federal poverty level. Oversight will assume the fee is paid to the ignition interlock device producer and not to the state. Oversight also notes DOR's response includes that the proposal duplicates another program located in the State Code of Regulations 7, CSR 60-2.

Officials from the **Office of State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. 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:

OSCA noted 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 central repository upon dismissal. (Subsection 9)

Oversight provides the following information from OSCA’s DWI Treatment Court Program according to their FY25 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 been found guilty of driving while intoxicated or driving with excessive blood alcohol content.

<u>PROGRAM STATISTICS</u>	<u>CY 22</u>	<u>CY 21</u>	<u>CY20</u>	<u>CY19</u>	<u>CY18</u>
Participants Served	985	956	966	1,194	1,284
Programs	25	23	23	23	22
Community Service Hours Performed	66,026	60,790	80,829	81,088	57,035
Retention Rate	N/A	93%	94%	93%	91%
Graduation Rate	88%	88%	92%	89%	82%
Source: OSCA FY25 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. Therefore, Oversight will reflect a \$0 to unknown cost for this proposal for OSCA.

Officials from the **Department of Corrections**, the **Department of Public Safety (Office of the Director, Missouri Highway Patrol)**, the **Missouri Department of Transportation**, the **Office of the State Public Defender**, the **Missouri Office of Prosecution Services**, the cities of **Kansas City**, **Urich**, the **Phelps County Sheriff’s Office**, the **Branson Police Department**, the **Kansas City 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 the **City of O’Fallon** and the **City of Springfield** 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, county prosecutors and local law enforcement agencies were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Costs – DOR §557.520</u>			
Personal Service	(\$93,043)	(\$113,884)	(\$116,162)
Fringe Benefits	(\$73,611)	(\$89,198)	(\$90,081)
Administrative Costs	(\$151,889)	\$0	\$0
ITSD Costs	(\$297,562)	\$0	\$0
Total Costs – DOR	(\$616,105)	(\$203,082)	(\$206,243)
FTE Change – DOR	3 FTE	3 FTE	3 FTE
<u>Costs – OSCA - potential increase in additional case work from this program §557.520</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown, could exceed \$616,105)</u>	<u>(Unknown, could exceed \$203,082)</u>	<u>(Unknown, could exceed \$206,243)</u>
Estimated Net FTE Change for General Revenue	3 FTE	3 FTE	3 FTE
HIGHWAY FUNDS (0644)			
<u>Revenue Loss – DOR - from reinstatement fees §557.520 p 5-6</u>	(\$92,812)	(\$111,375)	(\$111,375)
ESTIMATED NET EFFECT ON HIGHWAY FUNDS (0644)	<u>(\$92,812)</u>	<u>(\$111,375)</u>	<u>(\$111,375)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Loss – Cities/Counties – from reinstatement fees §557.520 p. 5-6</u>	<u>(\$30,938)</u>	<u>(\$37,125)</u>	<u>(\$37,125)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(\$30,938)</u>	<u>(\$37,125)</u>	<u>(\$37,125)</u>

FISCAL IMPACT – Small Business

Small businesses who install and/or service 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 another diversion program;
- The defendant does not hold a commercial driver's license;
- The offense did not occur while operating a commercial vehicle;
- The offense did not result in the injury or death of another person; and
- The defendant did not refuse a breathalyzer test.

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 may require installation of an ignition interlock device for a period of not less than one year and require the defendant to participate in a victim impact panel. If the prosecuting or circuit attorney requires an ignition interlock device, 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. The court may require the defendant to pay all or part of the costs, unless the court finds the defendant indigent.

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.

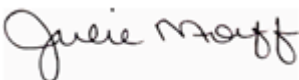
After the completion of the DWI diversion program and if the defendant has complied with all the imposed terms and conditions, the court shall dismiss the criminal case against the defendant, record the dismissal, and transmit the record to the central repository. The Department of Revenue shall also 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.

Finally, this act provides that a prosecuting or circuit attorney may divert intoxicated-related offenses to other diversion programs as provided in law.

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
Office of the State Courts Administrator
Department of Corrections
Department of Public Safety
Missouri Department of Transportation
Office of the State Public Defender
Missouri Office of Prosecution Services
Kansas City
O'Fallon
Springfield
Urich
Phelps County Sheriff's Office
Branson Police Department
Kansas City Police Department
St. Louis County Police Department



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