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JOINT COMMITTEE ON FINANCE

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: June 30, 2016

Re: DOJ Report to JFC

Attached is a report on the 24/7 Sobriety Pilot Program and the pilot county selection process from the Department of Justice, pursuant to s. 165.957(7a), Stats.

This report is being provided for your information only. No action by the Committee is required. Please feel free to contact us if you have any questions.

Attachments

AD:JN:jm



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June 30, 2016

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JT. Finance

Honorable Alberta Darling
Co-Chair, Joint Committee on Finance
Room 317 East
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Honorable John Nygren
Co-Chair, Joint Committee on Finance
Room 309 East
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Dear Senator Darling and Representative Nygren:

The attached report is submitted to the Legislature pursuant to Wis. Stat. 165.957 (7a), which requires the Department of Justice to submit a list of counties and reasons for choosing those counties for participation in the *Frequent testing for use of alcohol or a controlled substance; pilot program* (24/7 Sobriety Pilot Program). The attached report provides an overview of the 24/7 Sobriety Pilot Program and the pilot county selection process.

Please feel free to contact us if you have any questions.

Very truly yours,

BRAD D. SCHIMEL
Attorney General

Enclosure(s)



Wisconsin 24-7 Sobriety Pilot Program

County Selection Process

Bureau of Justice Information and Analysis

Wisconsin Department of Justice

June 2016



Wisconsin 24-7 Sobriety Pilot Program

June 2016

Purpose of Report

The purpose of this report is to provide information on the selection process for the Wisconsin 24/7 Sobriety pilot program. Wisc. Stat. 165.957(2) states that the Department of Justice (DOJ) will select up to five counties to participate in the pilot program. These counties and the criteria for selection are to be provided to the legislature no later than June 30, 2016 (WI Stat. 165.957(7a)).

24-7 Sobriety Overview

What is 24-7 Sobriety .

The 24/7 Sobriety Pilot Project is intended to provide a high level of monitoring to participants convicted of multiple Operating While Intoxicated (OWI) offenses to ensure they are not consuming alcohol or controlled substances, with an immediate sanction if a violation occurs. Participants are under constant (24 hours, 7 days a week) monitoring while on the program, which can take the form of reporting to a location twice per day to test for the presence of alcohol, utilizing another means of continuous testing for alcohol, or reporting on a schedule to test for the presence of drugs. A positive test for alcohol or drugs results in immediate and moderate consequences appropriate to the individual, such as 12 hours in jail. Failure to appear for testing also results in immediate consequences. The purpose of the 24/7 Sobriety program is to reduce Operating While Intoxicated (OWI) recidivism among individuals who have two or more OWI or related convictions. Initial research on the program in other states has demonstrated positive results in terms of reductions in recidivism, as well as the incidence of other crimes with a nexus to alcohol and drug abuse.

Based on WI Statute 165.957, participants are individuals with two or more OWI or related convictions and they may enter the program one of two ways. Individuals may be ordered by a judge or the department of corrections as a condition of bond, probation, deferred prosecution, release to parole, or release to extended supervision to refrain from using alcohol or controlled substances. Individuals may also voluntarily agree to refrain from the use of alcohol or controlled substances while released on bond, probation, deferred prosecution, parole, or extended supervision.

The statute (WI Stat. 165.957(4d)) also requires that the program costs be covered by the participants. Specifics on the fees are still being determined, but it is likely there will be a one-time enrollment fee and a per-test fee. The enrollment fee is not expected to exceed \$50 and the per-test fee for on-site breath alcohol testing is not expected to exceed \$2. Fees for other types of testing will also be determined. These fees will be used to cover the costs of the program for the county and the Department of Justice, including testing and a data collection system. The type of testing and testing process will need to be determined for each county, based on local needs.

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Success of 24-7 Sobriety

The 24/7 Sobriety Program, along with other programs modeled on swift and certain sanctions, show promising results around the country. There is evidence of reduced OWI recidivism and possible public health benefits to the 24/7 program.

South Dakota, the first state to implement 24/7 Sobriety, has received significant attention for the program demonstrating positive results. The 24/7 Sobriety Program participants demonstrated lower OWI recidivism (re-arrest) rates when compared to individuals who did not participate in the 24/7 Sobriety Program, for up to three years following the initial arrest that led to program participation (Loudenburg, Drube, and Leonardson, 2010). Only 7.4 percent of program participants committed another OWI offense in the three year follow-up period, compared to 13.7 percent of 2nd time offenders not in the program (Loudenburg, Drube, and Leonardson, 2010 p. 2). The same study found that for repeat offenders, even minimal days of participation positively impacted OWI arrest recidivism rates and individuals with at least 30 days of participation demonstrated a greater reduction in recidivism (Loudenburg, Drube, and Leonardson, 2010).

Another study of the South Dakota program found that not only did program participation reduce OWI recidivism arrests, but also that participation reduced domestic violence arrests by 9 percent (Kilmer, Nicosia, and Midgette, 2013). Cost savings were also attributed to the program due to participants paying a fee to help cover program costs, as well as diverting individuals from jail or prison (Long, Talpins, and DuPont, n.d.). Monitoring programs such as 24/7 Sobriety may also have public health benefits. Preliminary information indicates that the program may be associated with a reduction in adult mortality, although further research is needed in this area (Nicosia, Kilmer, and Heaton, 2016).

Montana implemented the program in 2010 and initial findings indicate that more than 95 percent of the scheduled tests were taken and passed by participants, and there is also evidence that the program was related to lower OWI arrest recidivism among participants (Midgette and Kilmer, 2015). Further evidence suggests that violent prior convictions are positively related to re-arrest, but the overall findings were limited due in part to missing criminal history data (Midgette and Kilmer, 2015).

Composition of Pilot Project

Pilot Project

The Department of Justice (DOJ) selected five counties for the pilot, as established in WI Stat. 165.957(2). The selection process is outlined in the next section. The project planning and initiation of the county program will begin July 1, 2016, and will continue, at a minimum, until December 31, 2020. Counties will work with the DOJ in the design of their individual program, but will be expected to meet minimum requirements to ensure program consistency and alignment with the statute. Counties participating in the program will also be expected to collect and provide data into a centralized system to assist in the evaluation of the program.

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County Selection Method

Counties were selected using a stratified sampling method. First, the counties were divided based on population into large (over 150,000 population), medium (between 30,000 and 150,000 population) and small (less than 30,000 population). Population was used to ensure that the program outcomes could be evaluated and compared in different size counties across Wisconsin. Counties were further divided based on whether or not they had a drug/alcohol related treatment court (i.e. Adult Drug Court, OWI Court, Adult Hybrid Court) to address the likelihood that how 24/7 is implemented will differ if the county has a specialty court program that may also accept and monitor the activities of OWI offenders. All large counties have some version of a drug/OWI court, therefore five groups were created, rather than six and one county was selected from each group.

Counties were then assigned random numbers and the lowest value was used in the selection of one county per group. All five selected counties agreed to participate in the pilot project and are listed below, along with the population, average OWI arrest rate for the past five years (2011-2015), and the average percent of repeat (two or more) OWI convictions for the past four years (2011-2014).

County	Selection Grouping	Population	OWI Arrest Rate	% Repeat Offender OWI Convictions
		2015 Census Est.	Avg. 2011-2015	Avg. 2011-2014
Green Lake	Small, no treatment court	18,856	491.5	44%
Washburn	Small, treatment court	15,552	537.6	37%
Manitowoc	Medium, no treatment court	79,806	445.5	38%
Oneida	Medium, treatment court	35,567	564.1	42%
Racine	Large	195,080	344.3	31%

For the above data, the population is based on the 2015 U.S. Census Bureau population estimates for each county. Treatment court information by county was cross-referenced through multiple sources including information maintained by the Office of Court Operations and a recent DOJ survey of counties and tribes to gather information on their treatment courts and diversion programs. Arrest data is based on reported arrests by Wisconsin law enforcement agencies under the Uniform Crime Reporting (UCR) program. Arrests in the UCR program are defined as: All persons processed by arrest (booking), citation, or summons (when served by an officer) for committing an offense in its jurisdiction and are based on the most serious charge reported, rather than the number of charges. The arrest rate per 100,000 persons is used to account for population differences across counties. OWI conviction data, based on the percent of offenders with two or more convictions for the listed time period, was provided by the WI Department of Transportation. As part of the evaluation, both comparison counties and historical data will be utilized assess how participants and non-participants compare in key areas such as recidivism and related outcome measures.

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References

Kilmer, B., Nicosia, N., Heaton, P., & Midgette, G. (2012). An Innovative Way to Curb Problem Drinking: South Dakota's 24/7 Sobriety Project. http://www.rand.org/pubs/research_briefs/RB9692.html

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RAND 24/7 Sobriety site: <http://www.rand.org/health/projects/24-7.html>