



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #382

Pretrial Intoxicated Driver Intervention Grant Program (Health Services -- Public Health and Other Programs)

[LFB 2015-17 Budget Summary: Page 243, #9 and Page 454, #4]

CURRENT LAW

The Department of Transportation's pretrial intoxicated driver intervention program, also known as the intensive supervision program, provides grants to local units of government or nonprofit organizations to offer alcohol abuse treatment and monitoring services for persons who have been charged with a second or subsequent operating while intoxicated offense. Under the local programs, participants must receive an alcohol assessment and driver safety plan prior to trial, based on the principle that early intervention may reduce recidivism. Successful completion of the program may be taken into consideration by the judge in sentencing if the person is later convicted of the OWI offense. Base funding for the program is \$731,600, from a state transportation fund appropriation. Grant recipients must provide at least a 20% match to receive state funds under the program.

GOVERNOR

Transfer administration of the pretrial intoxicated driver intervention grant program from the Department of Transportation to the Department of Health Services (DHS). Specify that DHS would fund grants under the program from a DHS GPR appropriation that currently supports grants for several statutorily-defined community programs administered by the Division of Mental Health and Substance Abuse Services. Delete \$731,600 SEG annually and the pretrial intoxicated driver intervention program appropriation in DOT.

DISCUSSION POINTS

1. County pretrial intensive supervision programs (ISPs) began in 1993 with a pilot project in Milwaukee County using federal transportation safety funds. The 1997-99 biennial budget provided \$150,000 in state funding to supplement federal money and to increase the number of participating programs. In subsequent years, the amount of state funding was increased and currently is the only source of funding for the grant program, since federal funds are no longer available for this purpose.

2. Currently DOT provides grants to support 10 programs. In some cases, the grant is provided directly to the county, while in other cases, the grants support the work of a nonprofit organization or private firm that works with the county's human services agency and court system. The following table shows the counties with an active ISP program in 2014-15, and the amount awarded to the ISP entity in that year.

Intensive Supervision Program Grants 2014-15

<u>County</u>	<u>Grant Amount</u>
Iowa	\$22,000
Kenosha	75,000
Marathon	57,600
Milwaukee	220,000
Portage	40,000
Price	12,000
Racine	85,000
Sheboygan	60,000
Washburn	5,000
Waukesha	<u>155,000</u>
Total	\$731,600

3. Programs use a variety of treatment and supervision measures, although DOT requires them to adhere to the same basic structure. Participants are subject to a structured monitoring regimen, which may include measures such as regular meetings with a case manager to review treatment progress, random drug and alcohol testing, or continuous electronic alcohol use monitoring.

4. All persons convicted of an OWI offense are required to submit to an alcohol assessment to determine the extent of their alcohol use, including the potential for any substance use disorder. A driver safety plan is developed based on the outcome of the assessment, establishing a treatment and monitoring plan. Because it can be over six months between an arrest and final adjudication in a criminal OWI case, there is often a considerable delay between a drunk driving incident and the time that a person begins monitoring and treatment. Advocates of the ISP approach assert that the benefit of the program is that the assessment and driver safety plan compliance are

begun much sooner, often within a few weeks to two months of an arrest. This more timely response to the behavior, they argue, has a better chance of changing the behavior over the long term.

5. The Department of Transportation, as well as ISP agencies, assert that the programs are successful in reducing OWI recidivism. Because of reduced recidivism and because ISP participants may have jail sentences reduced as the result of successful completion of the pretrial program, the grant recipients note that jail costs associated with OWI offenders are reduced. It is somewhat difficult, however, to conduct an evaluation of the effectiveness of ISPs in reducing recidivism because participation, in most cases, is voluntary. That is, those who enter and successfully complete the program may start with a better understanding of their substance use disorder, as well as a greater willingness to improve their condition, than those who choose not to participate. Consequently it may be that participants would have lower recidivism rate even without participation in the ISP. This does not mean that the program is not an effective measure to reduce drunk driving, but only that it is difficult to conduct a balanced evaluation of the program, given its voluntary nature.

6. Although the program statute requires grant recipients to contribute a match equal to at least 20% of program's costs, most grant recipients contribute well over 20% of the costs, typically through a combination of county funding and participant fees. DOT has encouraged counties to work toward supporting programs without state funds, once they have been in operation for a few years. However, some local programs have started, only to be suspended later due to a loss of county support.

7. DOT is statutorily required to prepare a report on the program by December 31, of even-numbered years, but the Department did not prepare a report in 2014, citing a lack of administrative resources and a perceived lack of users of the information. The bill would move administration of the pretrial intervention grant program from DOT to DHS on the grounds that DHS is the agency that typically administers programs related to the treatment of substance use disorders.

8. The bill would transfer the administration of the program to DHS, but no additional funding would be provided to support these grants. Instead, DHS would administer the program and provide grants from an existing appropriation for community programs related to mental health and substance abuse services, funded at \$8,681,100 annually. Since the bill would affect the existing distribution of these funds, the next several points provide a discussion of how the current funding is allocated.

9. A portion of the funding in the community programs appropriation is statutorily allocated to specific programs. In some cases, the Department is required to provide a specific amount to a program. For instance, DHS must provide \$125,000 annually to a prisoner reintegration pilot program in Milwaukee County. In other cases, the statute authorizes the Department to provide funding for a particular purpose, but limits the total. As an example, the Department is authorized to provide not more than \$261,300 each year for programs that provide substance abuse treatment as an alternative to imprisonment for eligible recipients. In still other cases, the Department is required to provide funding for a particular program, but no amount is

specified. The sum of the specific dollar amounts listed in statute accounts for approximately one-quarter of the annual base funding provided for the program under the bill.

10. The following table shows the actual distribution or allocation of funding from the community programs appropriation in 2014-15. In addition to the program and the amount provided, the table notes whether the distribution is required by statute and the statutory limits or requirements associated with the program. The appendix to this paper provides a brief description of the statutory requirements associated with each of these programs.

Distribution of Community Programs Funding in 2014-15

<u>Program</u>	<u>Amount</u>	<u>Mandatory?</u>	<u>Statutory Limits/Requirements</u>
Milwaukee Co. Substance Abuse Treatment	\$4,394,600	Yes	Amount not specified
Peer-Run Respite Centers	1,450,000	See note*	See note*
Opioid Treatment	1,056,000	Yes	Amount not specified**
Community Improvement Job Training	250,000	Yes	Must equal \$250,000
AODA Residential Treatment	220,800	No	Not more than \$248,200
Healthy Beginnings	175,000	Yes	Must equal \$175,000
Treatment Alternative Programs	174,700	Yes	Not more than \$261,300
Prisoner Reintegration Program	<u>125,000</u>	Yes	Must equal \$125,000
Total Allocation	\$7,846,100		

* The amount distributed for peer-run respite centers combines two statutory programs, one of which is discretionary, limited to \$1,200,000, and one of which is mandatory, but with no amount specified.

** Although the amount for opioid treatment is not statutorily-defined, the Department interprets 2013 Act 125 and the Committee's subsequent action as requiring an annual expenditure of \$1,056,000 in 2014-15 and \$2,016,000 annually thereafter.

11. The amount distributed or allocated from the community programs appropriation in 2014-15 differs from the base level of funding provided in the bill for the 2015-17 biennium. There are two reasons for this discrepancy. First, the amount of the base attributable to grants for opioid treatment programs is more than the amount distributed for this purpose in 2014-15. Under provisions of 2013 Act 125, the Department was required to submit a request to the Joint Committee on Finance under s. 13.10 of the statutes for an appropriation supplement, to be used for providing grants to opioid treatment programs in rural and underserved, high-need areas. The Department requested \$2,016,000 GPR for this purpose, based on the estimated cost of providing services to 240 individuals. The Committee approved roughly one-half of the requested amount (on the assumption that implementation would be delayed and so not as many individuals would be served), but directed that the 2015-17 appropriation base reflect the full amount requested. The second reason for the discrepancy is that the amount allocated for peer-run respite centers includes \$125,000 of funding carried over from 2013-14.

12. Without additional funding in the community programs appropriation, some current uses of the funding in this appropriation would have to be reduced in order to continue providing grants under the pretrial intoxicated driver program. The programs that potentially would be affected are those for which the distribution is not mandatory (AODA residential treatment) and

those for which the distribution is mandatory, but the amount is not specified or for which there is no minimum requirement (treatment alternative programs, Milwaukee County substance abuse treatment, peer-run respite centers, and opioid treatment). Although the opioid treatment program does not have a statutorily-defined distribution, the Department indicates that it interprets 2013 Act 125 and subsequent action of the Committee as mandating a distribution of \$2,016,000 annually for opioid treatment centers.

13. Under the bill, the pretrial intoxicated driver intervention program would be an additional mandatory program, but with no specific statutory allocation. As such, the Department could reduce funding for the program, relative to the current distribution.

14. The Department indicates it would evaluate the potential uses of community programs appropriation funding, including the pretrial intoxicated driver program, to determine the best use of available funding. It is possible that the amount of grants provided for ISPs would be reduced.

15. If ISPs are as effective at reducing OWI recidivism and jail use as the program administrators report, then it would be to the county's advantage to continue operating the programs, even if no state funding were available for this purpose. As an example, the Waukesha County program estimated that the program reduced the number of jail days (one person in jail for one day) by 24,529 in a recent one-year period. If it is assumed that the cost of a jail day is the amount that the state Department of Corrections pays counties to house an inmate in a county jail (\$51.46), then it is estimated that Waukesha County saved over \$1.2 million in that year as the result of the program. Even if the County did not receive a state grant for its ISP (\$155,000 in 2014-15), it would clearly be worthwhile to use additional county funds to continue the program.

16. One alternative that the Committee could consider would be to repeal the pretrial intoxicated grant program, which would avoid affecting current uses of the community programs appropriation [Alternative 3]. Although the state would no longer provide grants under this alternative, counties could continue to offer or fund pretrial programs with their own funds if they determine that such programs are cost effective.

17. Regardless of whether counties would contribute additional funding for ISPs in the event that state grant funding were reduced, a reduction in ISP funds would represent a reduction in overall funding available to counties that currently receive funds. Some counties may respond by downsizing or eliminating ISPs, while others may reallocate funding from other functions to maintain ISPs. In either case, funding for substance abuse treatment services may be affected. According to the Department's most recent assessment of mental health and substance abuse treatment needs, it is estimated that only about one-fourth of persons who need substance abuse treatment services receive those services.

If the Committee decides that funding for the pretrial intoxicated driver program should be maintained at the current level, the bill could be amended to provide \$731,600 GPR annually in the DHS community services appropriation and to require DHS to expend this amount annually for the program [Alternative 2], or by deleting the Governor's recommendation, which would maintain the program in DOT, funded at the base level with the transportation fund appropriation [Alternative 4]. [Since the Wisconsin Constitution generally prohibits the use of transportation fund revenues for

programs administered by non-DOT agencies, maintaining transportation fund support for the program would require that the program continue to be administered by DOT.]

ALTERNATIVES

1. Approve the Governor's recommendation to: (a) transfer administration of the pretrial intoxicated driver intervention grant program from DOT to DHS, to be funded from a GPR appropriation for community mental health and substance abuse programs; and (b) delete \$731,600 SEG annually and the pretrial intoxicated driver intervention program appropriation in DOT.

2. Modify the Governor's recommendation by providing \$731,600 GPR in the DHS community programs appropriation to allow the Department to continue funding the pretrial intoxicated grant program without affecting the existing distribution of funding. Require DHS to allocate this amount annually for this program.

ALT 2	Change to Bill
GPR	\$1,463,200

3. Repeal the pretrial intoxicated grant program.

4. Delete the provision, retaining the administration of the program in the Department of Transportation, funded with a transportation fund appropriation (\$731,600 SEG annually).

ALT 4	Change to Bill
SEG	\$1,463,200

Prepared by: Jon Dyck

APPENDIX

Programs Funded from Community Programs Appropriation

Milwaukee County Substance Abuse Treatment (Amount not specified). Provides alcohol and other drug abuse treatment services to persons in Milwaukee County who qualify for temporary assistance for needy families (TANF). Funding may only be provided if it can be counted toward federal TANF maintenance of effort requirements.

Peer-Run Respite Centers. Amounts distributed are provided under two similar statutory provisions. Under one, the Department may provide up to \$1,200,000 to regional peer-run respite centers for persons with mental health or substance abuse concerns. Under the other, the Department is required to contract with a peer-run organization to establish peer-run respite centers. Since the amount provided under the second provision is not specified, the combined total allocated to peer-run respite centers is not limited to \$1,200,000. Under this provision, the Department has contracted for the establishment of three regional centers.

Opioid Treatment. The Department is required to create two to three regional comprehensive opioid treatment programs to serve rural and underserved, high-needs areas. The program was created under 2013 Wisconsin Act 125. Under provisions of the Act, the Department was required to submit a request to the Joint Committee on Finance under s. 13.10 of the statutes for an appropriation supplement, to be used for providing grants to treatment programs. The Department requested \$2,016,000 GPR for this purpose, based on the estimated cost of providing services to 240 individuals. The Committee approved roughly one-half of the requested amount (on the assumption that implementation would be delayed and so not as many individuals would be served), but directed that the 2015-17 appropriation base reflect the full amount requested. The Department has awarded grants to three vendors to run treatment programs. The contracts anticipate total expenditures of \$2,016,000 through the end of calendar year 2015.

Treatment Alternative Programs (Not more than \$261,300). Grantees provide alcohol and drug abuse treatment services as a treatment alternative in lieu of imprisonment for eligible persons in need of services. Currently, funding is provided to Dodge County, Lutheran Social Services, Journey Mental Health, and Rock County. Federal funds received under the Substance Abuse Block Grant are used to supplement state grants to these entities and to provide grants to additional recipients.

AODA Residential Treatment (Not more than \$248,200). The grantee offers residential-based alcohol and drug abuse treatment services in Milwaukee. Grant provided to United Community Center.

Community Improvement Job Training (\$250,000). The grantee provides various services in areas with gang problems, including job training, counseling, and education to persons 16 to 23 years of age, and assistance for persons who need assistance starting small businesses. Grant provided to Wisconsin Community Services.

Healthy Beginnings (\$175,000). The grantee provides substance abuse day treatment for pregnant and postpartum women and their infants. Grant provided to ARC Community Services, Inc.

Prisoner Reintegration Program (\$125,000). The grantee provides assistance to participants, prior to release from incarceration, in planning for housing, employment, education, and treatment. Must be located in Milwaukee County. Grant provided to Wisconsin Community Services.