



## Legislative Fiscal Bureau

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June 5, 2007

Joint Committee on Finance

Paper #126

### Grants for County Alcohol and Other Drug Abuse Programs (DOA -- Office of Justice Assistance)

#### *Bill Section*

[LFB 2007-09 Budget Summary: Page 41, #7]

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#### **CURRENT LAW**

Provisions of 2005 Wisconsin Act 25 created the grants for county alcohol and other drug abuse program (the treatment alternatives and diversion grant program). The program is intended to provide grants to counties to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs.

Act 25 created an annual GPR appropriation under the Department of Administration's Office of Justice Assistance (OJA) for making grants and evaluating the program, but provided no funding. Act 25 also created a continuing PR appropriation under OJA for grant funding and program evaluation. Program revenue for this latter appropriation is provided from: (a) the drug abuse program improvement surcharge (DAPIS); and (b) a \$10 drug offender diversion surcharge assessed for property crime convictions under Chapter 943 of the statutes.

#### **GOVERNOR**

Include the following changes to the treatment alternatives and diversion grant program.

*Program Revenue Funding Changes.* Modify the distribution of revenue the state collects from DAPIS so that: (a) the first \$850,000 plus two-thirds of all funds collected in excess of \$1,275,000 in each fiscal year would be credited to the Department of Health and

Family Services (DHFS) appropriation that supports programs that provide prevention, intervention, and treatment for alcohol and other drug abuse problems; and (b) all moneys in excess of \$850,000 and up to \$1,275,000, plus one-third of moneys in excess of \$1,275,000 would be credited to an OJA appropriation to fund treatment alternatives and diversion grants. Specify that the new allocations would take effect on July 1, 2007. Under current law, as of July 1, 2007, two-thirds of all moneys from the surcharge are credited to the DHFS appropriation and one-third of the surcharge revenues are credited to the OJA appropriation.

*GPR Grant Funding to the County that has the Highest Violent Crime Rate.* Provide \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, for a grant to the county that has the highest violent crime rate, as reported by OJA, to enable the county to establish and operate a treatment alternatives and diversion program. The Executive Budget Book indicates that the grant would be provided to Milwaukee County.

Specify that, by August 15, 2007, the county with the highest violent crime rate, as reported by OJA, would have to submit an application to OJA to receive this grant funding. Upon approval of the application, OJA would be required to award the county \$250,000 for calendar year 2008, and \$500,000 for calendar year 2009.

## **DISCUSSION POINTS**

### **Program Revenue Funding Changes**

1. Act 25 created a continuing PR appropriation under OJA for treatment alternatives and diversion grant funding. This appropriation authorizes OJA to expend "all moneys received" to the appropriation to make grants under the program and to enter into contracts for the purpose of evaluating the grant program. Under Act 25, it was estimated that \$755,000 PR would be available for these purposes in 2006-07.

2. Act 25 provided two program revenue funding sources for the program. Effective with the passage of Act 25, the existing drug abuse program improvement surcharge (DAPIS) was increased to 75% of the sum of the fine and penalty surcharge. Under the surcharge change, OJA would not receive any DAPIS revenue for this program unless collections exceeded \$1,038,600 PR in 2005-06, and \$1,044,300 PR in 2006-07. Beginning July 1, 2007, two-thirds of DAPIS revenues will be allocated to DHFS and one-third of DAPIS revenues will be allocated to OJA to support this grant program.

3. In 2005-06, the state collected \$849,800 PR in DAPIS revenues. As of May 24, 2007, the state has collected \$750,600 PR in DAPIS revenues. As a result, there will be no DAPIS revenues to support grants under the program during 2005-07.

4. Effective with its passage, Act 25 also created the \$10 drug offender diversion surcharge for property crime convictions under Chapter 943 of the statutes. As of May 24, 2007, \$12,800 PR in drug offender diversion surcharge revenues have been collected during the biennium,

and it is estimated that \$14,100 PR in drug offender diversion surcharge revenues will be collected through June 30, 2007. Most of this revenue will have been collected during 2006-07 (\$13,300 PR).

5. While it is estimated that OJA will receive \$14,100 PR in revenue under its PR continuing appropriation during 2005-07, OJA utilized the appropriation to make grants to counties totaling \$747,450 PR in 2006-07. OJA indicates that the grants were made to the following counties: (a) \$163,725 to Dane County; (b) \$156,814 to Rock County; (c) \$148,936 to Burnett and Washburn Counties; (d) \$147,025 to Wood County; and (e) \$130,950 to Washington County. It is estimated that this appropriation will close 2006-07 with a deficit of \$733,350 PR. Office staff further indicates that OJA has made commitments to these counties to continue funding for these programs through the 2007-09 biennium, and estimate that they will need \$755,000 PR annually to honor these commitments.

6. Under state law, program revenue appropriations may not operate in deficit. Under s. 16.40(7) of the statutes, DOA is required to collect from any available source and correlate information concerning any and all anticipated state revenues, including program revenues. Under s. 16.513 of the statutes, if DOA projects that there are insufficient moneys, assets, or accounts receivable to cover expenditures under a program revenue appropriation, the affected agency must propose and submit to DOA a plan to assure that there are sufficient moneys, assets, or accounts receivable to meet projected expenditures under the appropriation. Any such plan approved by DOA must be forwarded to the Joint Committee on Finance for its approval under 14-day passive review.

7. Under current law, beginning July 1, 2007, two-thirds of DAPIS revenues will be allocated to DHFS and one-third of DAPIS revenues will be allocated to OJA to support this grant program. Under the provisions of SB 40, however, the distribution of DAPIS revenue would be modified so that: (a) the first \$850,000, plus two-thirds of all funds collected in excess of \$1,275,000 in each fiscal year would be credited to DHFS; and (b) all moneys in excess of \$850,000 and up to \$1,275,000, plus one-third of moneys in excess of \$1,275,000 would be credited to OJA.

8. Based on revenue collections during 2005-07, it is estimated that the state will receive \$850,000 PR annually in DAPIS revenue during 2007-09. While under current law, OJA would receive \$283,300 PR annually in DAPIS revenue during 2007-09, under the provisions of SB 40 it is estimated that OJA would receive no DAPIS revenue during the upcoming biennium. The administration indicates that due to lower than anticipated revenue collections, if the current DAPIS formula were maintained, "this would have severely impacted long-standing programs that receive DAPIS funding."

9. Traditionally DAPIS revenues have been deposited exclusively to the alcohol and drug abuse initiatives PR continuing appropriation under DHFS to support programs that provide prevention, intervention, and treatment for alcohol and other drug abuse problems. The Committee could elect to maintain current law to provide some revenue to OJA to partially fund its commitment to counties to support their programming for 2007-09. Maintaining current law, however, may require DHFS to make reductions to programming that it supports.

10. Alternatively, the Committee could elect to adopt the recommendation to modify the formula allocating DAPIS revenue. This alternative would permit DHFS to minimize funding reductions under its program, but may leave OJA with no DAPIS revenue for 2007-09.

11. The following estimates of the balance under OJA's PR continuing grant appropriation during 2007-09 assumes: (a) a deficit of \$733,350 PR at the end of 2006-07 as identified above; (b) \$14,000 PR annually in revenue under the \$10 drug offender diversion surcharge; and (c) expenditures under the appropriation of \$755,000 PR annually during 2007-09. If the Committee were to maintain the current law DAPIS formula allocation, it is estimated that OJA's PR appropriation would end the 2007-09 biennium with a deficit of \$1,648,750 PR. If the Committee adopts the DAPIS formula allocation modification included in the bill, it is estimated that OJA's PR appropriation would end the 2007-09 biennium with a deficit of \$2,215,350 PR.

12. Barring growth in revenue collections for DAPIS and the drug offender diversion surcharge, it is anticipated that DOA will be required to submit a plan to the Committee during the upcoming biennium to address a deficit in OJA's PR continuing appropriation for this program, regardless of which DAPIS formula allocation the Committee adopts.

#### **GPR Grant Funding to the County that has the Highest Violent Crime Rate**

13. The provisions of the bill would provide \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, to the grant program's GPR annual appropriation under OJA to provide a grant to the county that has the highest violent crime rate, as reported by OJA. The administration indicates that the grant would be provided to Milwaukee County.

14. Administration staff indicates that the intent would be to require Milwaukee County's program to adhere to the current law requirements for treatment alternatives and diversion programs. As a result, for Milwaukee County to receive the grant funding, all of the following current law provisions would have to apply:

a. The county's program would have to be designed to meet the needs of a person who abuses alcohol or other drugs and who may be or has been charged with or who has been convicted of a crime in that county related to the person's use or abuse of alcohol or other drugs.

b. The program would have to be designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families by meeting the comprehensive needs of participants.

c. The program would have to establish eligibility criteria for a person's participation. The criteria would have to specify that a violent offender is not eligible to participate in the program. A "violent offender" is one of the following: (1) a person who has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm; or (2) a person with one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or

serious bodily harm.

d. Services provided under the program would have to be consistent with evidence-based practices in substance abuse and mental health treatment, as determined by DHFS, and the program would have to provide intensive case management.

e. The program would have to utilize graduated sanctions and incentives to promote successful substance abuse treatment.

f. The program would have to provide holistic treatment to its participants and provide them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court-ordered obligations.

g. The program would have to be designed to integrate all mental health services provided to program participants by state and local government agencies and other organizations. The program would have to require regular communication among a participant's substance abuse treatment providers, other service providers, the case manager, and any person designated under the program to monitor the person's compliance with his or her obligations under the program and any probation, extended supervision, and parole agent assigned to the participant.

h. The program would have to provide substance abuse and mental health treatment services through DHFS-certified providers.

i. The program would have to require participants to pay a reasonable amount for their treatment, based on their income and available assets, and pursue and use all possible resources available through insurance and federal, state, and local aid programs, including cash, vouchers, and direct services.

j. The program would have to be developed with input from, and implemented in collaboration with, one or more circuit court judges, the district attorney, the state public defender, local law enforcement officials, county agencies responsible for providing social services, including services relating to alcohol and other drug addiction, child welfare, mental health, and the Wisconsin works program, the departments of corrections and health and family services, private social services agencies, and substance abuse treatment providers.

k. The county would have to comply with other eligibility requirements established by OJA to promote the objectives listed under a. and b. above.

15. For 2006-07, Milwaukee County received a grant of federal funding under the Byrne Justice Assistance Grant Program totaling \$275,400 FED. These federal funds were provided to Milwaukee County to create a treatment alternatives and diversion program, but utilized available federal dollars to initially fund the program. The administration indicates that Milwaukee County was recommended for GPR funding under SB 40 to permit the County to continue this program

during 2007-09. While violent offenders may not participate in the program, it can be argued that Milwaukee County would nonetheless benefit from a treatment alternatives and diversion program.

16. Under SB 40, Milwaukee County would receive \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, to continue this programming. The administration indicates that the level of funding was determined by balancing identified needs with available state funding.

17. The Milwaukee County program targets adults who have allegedly committed a non-violent offense. Individuals participating in the program may not have a prior conviction for a felony offense involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm. Program participants must have a substance abuse treatment need or a substance abuse disorder along with mental illness that are directly related to the alleged criminal behavior. Milwaukee County estimated that approximately 800 individuals will be diverted or receive deferred prosecution/sentencing.

18. The Committee could conclude that a need for this programming in Milwaukee County exists and approve the recommendation for GPR-funding to continue this program. Alternatively, The Committee could also elect to modify the recommendation and provide \$250,000 GPR annually, instead of increasing the funding to \$500,000 GPR in 2008-09.

19. The Committee could also choose to delete the recommendation with the expectation that OJA will make an effort to continue to fund the program during 2007-09 with Byrne Justice Assistance Grant funds (as it did in 2006-07). While the federal fiscal year (FFY) 2006 Byrne award totaled \$2,982,833 FED (which will generally be utilized during 2006-07), for FFY 2007 the federal government will award OJA a Byrne award totaling \$4,583,329 FED.

## **ALTERNATIVES TO BILL**

### **A. Program Revenue Funding Changes**

1. Adopt the Governor's recommendation to modify the distribution of revenue the state collects from the drug abuse program improvement surcharge so that: (a) the first \$850,000 plus two-thirds of all funds collected in excess of \$1,275,000 in each fiscal year would be credited to the Department of Health and Family Services appropriation that supports programs that provide prevention, intervention, and treatment for alcohol and other drug abuse problems; and (b) all moneys in excess of \$850,000 and up to \$1,275,000, plus one-third of moneys in excess of \$1,275,000 would be credited to the OJA appropriation to fund treatment alternatives and diversion grants. Specify that the new allocations would take effect on July 1, 2007.

2. Delete provision.

**B. GPR Grant Funding to the County that has the Highest Violent Crime Rate**

1. Approve the Governor's recommendation to provide \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, for a grant to the county that has the highest violent crime rate, as reported by OJA, to enable the county to establish and operate a treatment alternatives and diversion program.

<b>ALT B1</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	\$0	\$750,000

2. Modify the recommendation by providing \$250,000 GPR annually for a grant to the county that has the highest violent crime rate, as reported by OJA, to enable the county to establish and operate programs that provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs.

<b>ALT B2</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	-\$250,000	\$500,000

3. Delete provision.

<b>ALT B3</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	-\$750,000	\$0

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