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**Report to  
The Vermont Legislature**

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**Distracted Driving Diversion Program – Feasibility and Design Options**

**In Accordance with Section 51 of [Act 165 \(2024\)](#)**

**Submitted to:** Senate Committee on Judiciary  
Senate Committee on Transportation  
House Committee on Judiciary  
House Committee on Transportation

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**Report Date:** December 15, 2024

## Introduction

This report has been prepared in accordance with Sec. 51 of Act 165 (2024), which directed the Office of the Attorney General (AGO) to evaluate the feasibility of, and design options for, establishing a distracted driving diversion program as an alternative to civil penalties and drivers' license points for individuals who violate Vermont's distracted driving laws, including 23 V.S.A. §§ 1095a, 1095b, and 1099. Per Act 165, § 51, the issues for the AGO's Community Justice Unit to consider shall include:

- 1) *whether conducting a distracted driving diversion program is feasible;*
- 2) *if so, how such a distracted driving diversion program should be structured and administered;*
- 3) *the age groups to which the program should be made available;*
- 4) *performance outcome measures that indicate whether the program is reducing the participants' likelihood of future distracted driving;*
- 5) *whether fees should be imposed for participation in the program and, if so, what those fees should be;*
- 6) *the additional resources, if any, that would be needed to implement and administer the program; and*
- 7) *whether diversion or other alternatives should be made available to address other driving-related violations, especially youth violations.*

## Executive Summary

Distracted driving presents a serious risk to public safety and one that is difficult to assess accurately. In addition, research on educational strategies to deter the use of handheld devices while driving is limited. Because of the absence of research on whether an educational diversion program would be more effective than the deterrence effect of financial penalties and points, as well as the additional resources that would be needed to develop and maintain a diversion program, the AGO does not recommend the Legislature develop a diversion program for distracted driving at this point. The AGO recommends that any further investment in addressing the risk of distracted driving focus on high-visibility enforcement of current law prohibiting the use of handheld devices.

The AGO further recommends legislative focus on including first-time juvenile DUIs as appropriate for diversion.

## Distracted Driving in Vermont

The term distracted driving encompasses a wide range of behaviors that divert attention from driving, including mobile-phone texting, talking on the phone, eating, and other activities.

The National Highway Traffic Safety Administration (NHTSA) estimates that distracted driving contributed to 3,300 fatalities nationwide in 2022. The Vermont State Highway Safety Office notes that accidents related to distracted driving are difficult to document and that the number of traffic crashes attributed to distracted driving is "grossly under-reported. Forensic examinations of cell phones after crashes are very rare, and it appears that many drivers may no longer self-report being distracted prior to the crash." [Highway Safety Plan Annual Report 2023](#)

Vermont laws prohibit two forms of distracted driving: the use of handheld devices (23 V.S.A. §§ 1095a, 1095b) and texting (23 V.S.A § 1099). The use of a handheld device can include texting. During FY 2024, the Vermont Judicial Bureau adjudicated over 2,500 violations of the use of a portable device and texting, including violations in a work or school zone. Law enforcement officers issue significantly more tickets for use of handheld devices than for texting. These data do not include warnings issued by officers.

Data from the Department of Motor Vehicles indicate that 10% of violations are issued to youth under age 22 and approximately 80% to adults 26 years of age and older. The [Vermont Distracted Driving Observation Report 2023](#) (Observation Report) documented roadside observations of drivers talking on a cell phone, talking using a hands-free device, and manipulating the touchscreen for any reason, all while driving. The Observation Report estimated that 15% of distracted drivers were under the age of 25. At 11.

The Observation Report further found under 2% of drivers talked while driving, and 3.2% of drivers were seen to be otherwise manipulating their device. These findings represent a significant drop from the previous year. The report concludes, “Overall, the results are positive and very encouraging.” At 18.

## Design Options

For this report, the AGO focused on an educational program as an alternative to current penalties, modeled on Youth Substance Awareness Safety Program, or YSASP (a diversionary program for civil underage possession of alcohol and cannabis violations, *see* [7 V.S.A. § 656](#) and [18 V.S.A. § 4230b](#)), as the basis for the design options for distracted driving. The feasibility of the design options also considers efficacy of an educational approach, program accessibility for participants, staffing, administrative procedures, quality assurance and evaluation, cost, and the evidence of effectiveness to further the goal of public safety by reducing distracted driving.

Evidentiary support based on scientific studies is one of the most important feasibility criteria for assessing the effectiveness of an education-based approach. A preliminary literature review finds few studies on the effectiveness of educational programs for distracted driving. A meta-analysis of 138 studies on the effectiveness of psychoeducational interventions on driving behavior noted the paucity of studies on interventions to address cellphone use while driving but did review the effectiveness of programs on risky driving in general. The authors concluded that for risky driving behaviors in general “feedback, training, motivational and cognitive-behavioral interventions work better”.<sup>1</sup>

NHTSA provides a reference guide, [Countermeasures That Work](#), to help states select “effective, science-based” measures to address highway safety problems. Only two countermeasures to address distracted driving were found to be effective by high-quality evaluations: graduated-driver license passenger limits for young drivers and high-visibility cell phone enforcement. The guide does not list any educational programming as a means to deter distracted driving as effective or needing further evaluation.

Education alone probably does not deter people from risky driving behaviors. The need for greater intervention, such as cognitive-behavioral therapy, as found in the cited meta-analysis, is

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<sup>1</sup> Tirla, L., Sarbescu, P., Rusu, A. Assessing the effectiveness of psychoeducational interventions on driving behavior: A systematic review and meta-analysis. *Accident Analysis and Prevention*, Vol. 199, 2024., p. 12.

supported by findings on the dissonance between people’s attitudes about risky driving and their own behavior, as referenced by NHTSA. In a [2020 survey](#), the AAA Foundation for Traffic Safety found 96% of respondents said using a cell phone to text or email while driving was extremely or very dangerous, and yet 37% of respondents admitted to talking on the phone while driving during the past 30 days.

Driving education programs currently in the state use one of three design options: individualized intervention, a virtual real-time group course, and an individual self-directed on-line course. The current YSASP program is an individualized intervention, conducted in-person or virtually, depending on the participant’s needs and agency caseload. The Safe Driving program, which operates in six locations around the state and may be part of a probationary sentence or reparative panel agreement for DUI and negligent operations convictions, uses an in-person or virtual real-time group course. Those who take DMV’s permit-preparation course do so in a self-directed on-line course. Driver’s Education programs in the state, offered by schools and private driving programs, conduct both in-person and virtual group classes. Other jurisdictions, for example, in Oregon and Ohio, provide web-based driving-related courses completed by individuals on their own schedule.

Participation in any program depends on individual motivation and ease of access. Avoidance of a fine (\$100 for first-time violation) and points (two for first offense) assessed against one’s driving record would motivate participation. However, a time-intensive program, which might be more effective in changing behavior, would likely be of less interest to prospective participants who have busy lives, can easily pay the fine, or are less concerned about points against their license. Transportation and access to a computer and the internet affect access, in addition to whether a program fee is assessed. Any program would require interpretation and translations services for people who are not proficient in English.

## Age Groups

Data suggest the risks of distracted driving by younger drivers is higher than that by adults.

- [NHTSA reports](#) that young drivers are substantially over-involved in crashes compared to adults, although this number is declining.
- Data on drivers involved in [fatal crashes in 2021](#) show young drivers are more likely to be involved in distracted-affected crashes. The study found that in 2021, **7% of drivers aged 15-20** involved in fatal crashes were distracted by their phones, which the largest proportion of drivers within any age group n other age groups.
- Vermont’s [2023 Youth Risk Behavior Survey](#) found that over 30% of Vermont high school students who drove a vehicle during the past 30 days reported texting or emailing while driving. Self-reported rates of texting while driving statistically increased since 2013, including between 2021 and 2023. This increase differs from the Vermont Distracted Driving Observation Report 2023 finding that handheld use of devices has declined. This discrepancy may reflect a decrease in adults’ distracted driving or reflect results arising from different research methodologies.

These findings should not be seen to minimize the risks associated with adults’ distracted driving. If a diversion program is more effective than current penalties, which is currently difficult to determine, then it would make sense to prioritize targeting youth over adults.

## Procedural and Administrative Considerations

In addition to considering the effectiveness in reducing distracted driving, the feasibility of a new program depends on procedural and administrative considerations. A new program would require curriculum development, support and oversight to promote consistency and quality of services statewide, and would need to function effectively for law enforcement, providers, and the Judiciary.

The YSASP, an alternative to the fines and penalties of civil violations of underage alcohol and cannabis possession, serves as a model for a distracted driving diversion program. The Attorney General's Office grants funding to Court Diversion programs to provide this program in all counties. For this reason, during the last session, the Legislature turned to the AGO to assess the feasibility of a similar program for distracted driving. At the same time the Legislature also codified pre-charge Diversion in [Act 180](#) under the AGO as of July 1, 2025. Both providers and the AGO will be focused on this expansion and any assessing or implementing additional programming would best wait until pre-charge Diversion is established.

As noted, the YSASP statutes could provide a model for a distracted driving diversion program. To minimize administrative costs, this legal framework would need modifications to reduce 'paperwork' and align with law enforcement officers' increased use of e-ticketing.

## Outcome Measures

A performance outcome measure to indicate whether the program is reducing the participants' *likelihood* of future distracted driving would be to ask each program participant, at the completion of the course, how likely they are to use a handheld device while driving in the future. An anonymized electronic survey could ask participants a question such as "How likely are you to use your cell phone or other device while driving in the future?" with Likert response options "likely to use," "might use" and "will not use."

Depending on the data collection options, a researcher could compare whether participants who completed the diversion program were subsequently ticketed for use of a handheld device at a different rate than those who did not.

## Fees

It is not recommended that any distracted driving diversion program include a fee. While program fees can help to offset the cost of a program, they also serve as a barrier to participation.

If the Legislature establishes a distracted driving diversion program and includes a program fee, that fee should be significantly lower than the current penalty for a first offense (\$100) and assessed based on a sliding fee scale. Fee revenues should be deposited in the General Fund and used to support program operations. As noted in [the Coordinated Justice Reform Council's November 2024 report](#) to the Legislature, the practice of supporting programs through fines and fees deposited in program-specific special funds creates program instability. The Council recommends the General Assembly consider legislation that "moves program support from specials funds to general funds, and also establishes the base amount of general fund dollars needed to support the identified [community-based] programs."

## Additional Resources Needed

Additional resources would be needed to development the program, including curriculum design, and to provide for the ongoing delivery of the program, data collection, quality assurance, and evaluation efforts. The AGO did not attempt to quantify the associated costs given the number of unknown variables. Working with partners in other jurisdictions with successful programs, or potentially appropriating funds to work with a contractor to assess and design a program could provide useful cost projections. For example, Beaverton, Oregon contracts with three vendors to deliver a distracted driving course in place of a fine. Ohio’s Department of Public Safety created and hosts is own course, which may be taken in lieu of paying a fine.

## Summary of Design Options

	<b>A. Individualized intervention</b>	<b>B. Virtual real-time group course</b>	<b>C. Individual self-directed on-line course</b>
Access	<ul style="list-style-type: none"> <li>Virtual option could be provided to promote access regardless of a driver’s location. Participants would need access to confidential space.</li> <li>Language access would require interpreters.</li> </ul>	<ul style="list-style-type: none"> <li>Virtual option could be provided to promote access regardless of a driver’s location. Participants would need access to confidential space.</li> <li>Language access would require interpreters.</li> </ul>	<ul style="list-style-type: none"> <li>Greater access compared to options A and B. Participants could take the course at a public library.</li> <li>Greater access for those not proficient in English as the course could be translated into other languages.</li> </ul>
Staffing resources	<ul style="list-style-type: none"> <li>Intensive staffing needs for participant assessment and delivery, and administration.</li> </ul>	<ul style="list-style-type: none"> <li>Fewer staff required than option A.</li> </ul>	<ul style="list-style-type: none"> <li>Fewer staff needed compared to options A &amp; B.</li> </ul>
Perception of effectiveness	<ul style="list-style-type: none"> <li>Greater opportunity to individualize an intervention based the person’s infraction and life circumstances may make this more effective.</li> </ul>	<ul style="list-style-type: none"> <li>Individualized attention by instructor possible if group size limited and participants required to keep their camera on and actively engage.</li> </ul>	<ul style="list-style-type: none"> <li>Harder to design cognitive-behavioral intervention.</li> <li>Concerns about how to ensure the right individual completes the course.</li> </ul>

Evaluation	<ul style="list-style-type: none"> <li>• Not as standardized an intervention so more difficult to assess components that lead to success.</li> </ul>	<ul style="list-style-type: none"> <li>• Not as standardized an intervention so more difficult to assess components that lead to success.</li> </ul>	<ul style="list-style-type: none"> <li>• Set curriculum so more likely to be able to draw conclusion about effectiveness in deterring subsequent distracted driving.</li> </ul>
Cost	<ul style="list-style-type: none"> <li>• Highest cost to deliver due to staffing requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• May strike the cost and outcome effectiveness balance by instructor engaging directly with individuals in a group setting.</li> </ul>	<ul style="list-style-type: none"> <li>• Probably least costly.</li> </ul>

### Other Driving Related Violations – Juvenile DUI

In addition to the feasibility of a distracted driving diversion program, Act 165 asks whether diversion or other alternatives should be made available to address other driving-related violations, especially youth violations. Court Diversion program directors and the AGO identified first time juvenile DUIs (.02 tickets) as a violation appropriate for diversion.

Driving while under the influence is another significantly risky behavior. The legal blood alcohol content (BAC) threshold for youth under age 21 is .02. Currently, youth under age 21 who drive under the influence between .02 and .08 BAC receive both a juvenile DUI (.02) ticket pursuant to [23 V.S.A. § 1216](#) and a Notice of Violation for possession of alcohol ([7 V.S.A. § 656](#)). These violations require different responses and can lead to different penalties. Youth and their families are often confused by the paperwork, and many mistakenly assume that completing YSASP (the option for avoiding the penalties associated with possession of alcohol) will satisfy the .02 ticket. As a result, youth are subsequently surprised to learn that their driver’s license is suspended and that they are required to complete IDRP. In the interim, they continue to drive without the intervention provided by IDRP and may accumulate license suspension violations.

This bi-furcated response to underage alcohol possession and DUI undermines public safety as well as accountability for young people’s risky driving and violation of the law. And consistent, early intervention is a crucial factor for youth in limiting the long-term impact of such behavior. In addition, longer term collateral consequences for youth can include subsequent civil and criminal violations for driving under suspension.

Expansion of the current YSASP to include first-time underage possession violations of juvenile DUI/.02 violation and consolidate a possession violation with any .02 violation would address these problems, while furthering the goals of public safety and youth health and holding youth accountable for their risky behavior.

### Conclusion

The AGO does not recommend the Legislature develop a diversion program for distracted driving at this point for a few reasons. Research is lacking on whether an educational diversion program would be more effective than the deterrence effect of financial penalties and points. The NHTSA identifies graduated-driver license passenger limits for young drivers and high-visibility

cell phone enforcement as the only two demonstrated effective measures to address distracted driving. In addition, the state would need to invest additional resources to develop and maintain a diversion program, and generating revenue for the program through fees would create a barrier to entry and the necessary fees could well be higher than the current fines. The AGO recommends that any further investment in addressing the risk of distracted driving align with the evidence of what is most effective: high-visibility enforcement of current law prohibiting the use of handheld devices.

The AGO further recommends expansion of the current YSASP to include first-time underage possession violations of juvenile DUI/.02 violation and consolidating a possession violation with any .02 violation.

## Organizations Consulted

Act 165 directed the Office of the Attorney General to consult with the Court Diversion programs, the Vermont Judiciary, the Department of Motor Vehicles, and representatives of Vermont law enforcement agencies in preparing this report. In addition, staff from the Community Justice Unit of the AGO met with others as named below. Their information and views informed this report.

- **Vermont Association of Court Diversion and Pretrial Services, program directors**
- **Agency of Transportation**
  - State Highway Safety Program, Allison LaFlamme and Paul White and Bill Jenkins, Law Enforcement Liaisons to the State Highway Safety Program
  - Department of Motor Vehicles, Director of Operations, Nancy Prescott and Chief of Driver Improvement Matt Rousseau
  - Department of Motor Vehicles, Enforcement and Safety Division, Patrick J. McManamon, Education Unit Supervisor and Justin McClan, Driving Training Coordinator
- **Law enforcement**
  - Vermont Association of Chiefs of Police, Chief Loretta Stalnaker, Royalton Police Department
  - Vermont State Police, Lt. Paul Ravelin
  - Windham County Sheriff Mark Anderson
  - Department of State's Attorneys and Sheriffs, Traffic Safety Resource Prosecutor Dennis Wigmans
- **Vermont Judiciary**
  - Vermont Judicial Bureau, Hearing Officer Charles Romeo
  - Court Administrator's Office, Kristie Landon, Programs Manager, Trial Court Operations
- Safe Driving Program, Carol Plante (grant recipient of SHSO)
- Ohio Department of Public Safety, State Administrator of Driver Education & Training, Valerie Wald
- Beaverton, Oregon Municipal Court, Judge Juliet Britton