

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representative Skarphol

1 A BILL for an Act to create and enact five new sections to chapter 54-12 of the North Dakota  
2 Century Code, relating to the establishment of a statewide twenty-four seven sobriety program  
3 by the attorney general; to create and enact a new section to chapter 12-59 of the North Dakota  
4 Century Code, relating to the authority of the parole board to use the twenty-four seven sobriety  
5 program as an intermediate sanction or condition of parole; to create and enact a new  
6 subsection to section 39-06.1-11 of the North Dakota Century Code, relating to temporary  
7 restricted driver's licenses; to amend and reenact subsection 3 of section 12.1-32-07 of the  
8 North Dakota Century Code, relating to supervision of probationers; and to provide an  
9 appropriation.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **SECTION 1.** Four new sections to chapter 54-12 of the North Dakota Century Code are  
12 created and enacted as follows:

13 **Twenty-four seven sobriety program.** The attorney general may establish a  
14 statewide twenty-four sobriety program. The sobriety program involves coordination among  
15 state, county, and municipal agencies for the purpose of implementing procedures as  
16 alternatives to incarceration for offenders charged with, or convicted of, driving under the  
17 influence of alcohol or controlled substances, domestic violence, abuse or neglect of child, or  
18 for other offenses in which alcohol or controlled substances are involved.

19 **Twenty-four seven sobriety program guidelines and program fees.** The attorney  
20 general, in cooperation with law enforcement, the judiciary, the department of corrections and  
21 rehabilitation, and the department of transportation traffic safety division, may develop  
22 guidelines, policies, and procedures to administer the twenty-four seven sobriety program and  
23 to test offenders to enforce compliance with the sobriety program, including sobriety testing  
24 twice per day seven days per week, electronic monitoring, including home surveillance and

remote electronic alcohol monitoring, urine testing and drug patch testing, and to establish program fees, all of which are not subject to chapter 28-32.

**Twenty-four seven sobriety program fund.** There is created the North Dakota twenty-four seven sobriety program fund to be administered by the attorney general. The fund includes appropriated funds, moneys received from grants from the United States, agencies of this state, private grants, gifts, or donations, and program fees. The funds are appropriated as a continuing appropriation to the attorney general for expenses necessary for the administration and operation of the sobriety program, including staff support, training and travel costs, computer software and hardware, testing equipment, and supplies.

**Twenty-four seven sobriety program fees.** A criminal justice agency may collect program fees from offenders participating in the twenty-four seven sobriety program, including fees for twice per day breath alcohol testing, urine testing, drug patch testing, installation and deactivation fees for remote electronic alcohol monitoring devices, and remote electronic alcohol monitoring daily fees. The criminal justice agency shall pay all program fees into the general fund of the governing body. The fees may only be applied to twenty-four seven sobriety program support services, equipment maintenance and replacement, and compliance with the program. The governing body shall pay any daily fees collected for remote electronic alcohol monitoring to the attorney general North Dakota twenty-four seven sobriety program funds.

**Bond conditions.** A district court or municipal court of this state may order an offender charged with a violation of section 39-08-01 or equivalent ordinance, domestic violence, abuse or neglect of a child, or other offense in which alcohol or controlled substances are involved, to participate in the twenty-four seven sobriety program as a condition of bond.

**SECTION 2.** A new section to chapter 12-59 of the North Dakota Century Code is created and enacted as follows:

**Twenty-four seven sobriety program.** The parole board may authorize participation in the twenty-four seven sobriety program as an intermediate sanction or condition of parole.

**SECTION 3.** A new subsection to section 39-06.1-11 of the North Dakota Century Code is created and enacted as follows:

If convicted for a violation of section 39-08-91 or equivalent ordinance is for a second or subsequent offense, and the offender's driver's license is not subject to

1           an unrelated suspension or revocation, the director shall issue a temporary  
2           restricted drivers license to an offender of the purpose of participation in the  
3           twenty-four seven sobriety program upon submission of proof of financial  
4           responsibility and proof of participation in the program. The director may  
5           immediately revoke an offender's temporary driver's license upon proof by a  
6           preponderance of the evidence the offender has violated a condition of the  
7           twenty-four seven sobriety program.

8           **SECTION 4. AMENDMENT.** Subsection 3 of section 12.1-32-07 of the North Dakota  
9 Century Code is amended and reenacted as follows:

- 10           3. The court shall provide as an explicit condition of every probation that the  
11           defendant may not possess a firearm, destructive device, or other dangerous  
12           weapon while the defendant is on probation. Except when the offense is a  
13           misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-05, or  
14           12.1-17-07.1, or chapter 14-07.1, the court may waive this condition of probation if  
15           the defendant has pled guilty to, or has been found guilty of, a misdemeanor or  
16           infraction offense, the misdemeanor or infraction is the defendant's first offense,  
17           and the court has made a specific finding on the record before imposition of a  
18           sentence or a probation that there is good cause to waive the condition. The court  
19           may not waive this condition of probation if the court places the defendant under  
20           the supervision and management of the department of corrections and  
21           rehabilitation. The court shall provide as an explicit condition of probation that the  
22           defendant may not willfully defraud a urine test administered as a condition of  
23           probation. Unless waived on the record by the court, the court shall also provide  
24           as a condition of probation that the defendant undergo various agreed-to  
25           community constraints and conditions as intermediate measures of the department  
26           of corrections and rehabilitation to avoid revocation, which may include:
- 27           a. Community service;
  - 28           b. Day reporting;
  - 29           c. Curfew;
  - 30           d. Home confinement;
  - 31           e. House arrest;

- 1                   f.    Electronic monitoring;
- 2                   g.    Residential halfway house; or
- 3                   h.    Intensive supervision program.
- 4                   i.    Participation in the twenty-four seven sobriety program.

5                   **SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the  
6 general fund in the state treasury, not otherwise appropriated, the sum of \$546,000, or so much  
7 of the sum as may be necessary, to attorney general for the purpose of the twenty-four seven  
8 sobriety program.