

March 7, 2025

Dear Chairman Klemin and the House Judiciary Committee:

I am currently the State's Attorney in Stark County. I have been with my office for just under ten years. I practice in the Southwest Judicial District (SWJD) which encompasses Stark, Billings, Golden Valley, Dunn, Bowman, Hettinger, Slope and Adams Counties. Judges in the SWJD have been waiving 24/7 testing fees for years. The waivers are not given across the board, nor are they arbitrary.

In pre-sentence cases only, the defendants are allowed to fill out a form requesting a waiver of the fees due to financial hardship. The Judges review these requests. My understanding is that the reviewing Judge follows the same guidelines for waiving 24/7 testing fees as would qualify someone for indigent defense. Once that waiver is granted, there is no leniency. If the individual fails a test, the first request from the State Attorney to the Judge is that the fee waiver be revoked. The obvious thought process is if the defendant has money to continue to use drugs or alcohol, they have money to pay for the 24/7 testing.

This process has worked quite well in the SWJD for years. Without the ability of the Judges to waive fees based on financial criteria, many more people would be sitting in jail.

For example, if an individual shows up to receive their drug patch and does not have the \$60.00 every ten days to pay for the drug patch, they are placed in jail. A bond hearing is set, and bond is asked for. That individual who now could not afford \$60.00 every ten days has an even more unattainable bond amount and so will likely sit in jail until a resolution to their case is reached. The daily inmate rate at the Southwest Multi-County Correctional Center is \$150.00. This is a direct cost to the county. I understand and fully appreciate that some sheriffs are concerned about their budgets, but at the end of the day, the money being paid – whether in the form of a fee waiver, or incarceration, comes from the citizens of the county. It just costs a lot more to keep people incarcerated, not only financially, but at a societal level.

The other alternative to not waiving 24/7 testing fees, is not incarcerating anyone that cannot afford testing. There again, the sheriff's budgets, and ultimately the counties, are still taking the hit for unfunded testing.

Completely foreclosing judges from making a case-by-case decision on who may need or deserve a fee waiver should be a decision for the local judicial districts based on the needs and wants of their communities, budgets, and jail space. Prohibiting any waiver of 24/7 fees across the board will end up costing some counties more money, it will contribute to the overcrowding of jails we are currently facing, and it takes local control away from the individuals who best know the needs of their communities. My colleagues and I in the SWJD strongly urge a DO NOT PASS on SB 2365.

If you have any questions for me, please feel free to reach out.

Sincerely,

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