

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1306
(Representatives Skarphol, Delmore, Thoreson)
(Senators Lyson, Nething, Robinson)

AN ACT to create and enact a new section to chapter 12-59, a new subdivision to subsection 2 of section 28-32-01, a new subsection to section 39-06.1-11, and five new sections to chapter 54-12 of the North Dakota Century Code, relating to the authority of the parole board to use the twenty-four seven sobriety program as an intermediate sanction or condition of parole, temporary restricted driver's permits, and establishment of a statewide twenty-four seven sobriety program by the attorney general; to amend and reenact subsection 3 of section 12.1-32-07 of the North Dakota Century Code, relating to supervision of probationers; to provide an appropriation; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 2. AMENDMENT. Subsection 3 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

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

- g. Residential halfway house; ~~or~~
- h. Intensive supervision program; or
- i. Participation in the twenty-four seven sobriety program.

SECTION 3. A new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code is created and enacted as follows:

The attorney general with respect to twenty-four seven sobriety program guidelines and program fees.

SECTION 4. A new subsection to section 39-06.1-11 of the North Dakota Century Code is created and enacted as follows:

If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance and the offender's driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit to the offender only for the purpose of participation in the twenty-four seven sobriety program upon submission of proof of financial responsibility and proof of participation in the program by the offender. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

SECTION 5. Five new sections to chapter 54-12 of the North Dakota Century Code are created and enacted as follows:

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

Twenty-four seven sobriety program guidelines and program fees. The attorney general, in cooperation with law enforcement, the judiciary, the department of corrections and rehabilitation, and the traffic safety division of the department of transportation, may develop guidelines, policies, and procedures to administer the twenty-four seven sobriety program and to test offenders to enforce compliance with the sobriety program, including sobriety testing 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 - Continuing appropriation. There is created the 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 twenty-four seven sobriety program fund.

Bond conditions. A district 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 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the attorney general for the purpose of the twenty-four seven sobriety program, for the biennium beginning July 1, 2009, and ending June 30, 2011.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1306.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 45 Nays 1 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State