

Testimony in Support of Senate Bill 2365 as it relates to twenty-four seven sobriety program fees.

The Cass County Sheriff's Office participates in the state mandated 24/7 program including breath alcohol testing, urine testing, drug patch testing installation, and remote electronic alcohol monitoring. The 24/7 program was designed to be maintained financially by the participants paying the associated fees to cover the costs to run the program and pay the salary of the 24/7 coordinator. The fees collected and expenses incurred are maintained in an exclusive account to pay costs associated with this program. The 24/7 program budget is separate from the regular county and department budget funds. We can only use 24/7 funds to cover expenses directly in support of the program. The program was created, designed, and intended to be administered locally but funded by expenses paid by the participants. The Sheriff's Office is required to pay all the vendors that provide equipment and process lab results.

Recently we have had a Judge in the East Central Judicial District (Cass County) begin to occasionally waive the fees of those being ordered to the 24/7 program. When a Judge waives these fees, the cost for the participant is taken out of the Sheriff's budget with no way for the Sheriff to seek reimbursement. Due to the size of the program in Cass, we already spend more annually supporting and running the program than is collected in fees. If a Judge/s waives these fees and it becomes more frequent the program will not be able to be self-maintained. Any program costs waived by a Judge are paid out of the dedicated funds, which further reduces the balance and increases the amount that the county pays (money taken out of the Sheriff's budget) to subsidize the program.

There is state statute that provides guidance on who is responsible for the program fees. It states in North Dakota Century Code 19-03.1-46 (bail, additional conditions of release) that the testing must be at the individual's own cost. We (myself and the Attorney General's Office) visited with the Judge who was waving the fees, and she has indicated she is going to continue the practice of waiving the fees. With not knowing exactly how many of these fees will be waived and how many participants will be ordered to the program it is nearly impossible for Sheriff's who are state mandated to run this program to budget for these types of costs. Sheriff's Budgets are prepared and requested based on the need for public safety not to pay fees as a result of what the State Court Judges decide to waive in court fees. In a County as big as Cass that has approximately 225 participants if more and more fees began to be waived by additional judges it could be a substantial hit to our Sheriff's budgets. The 24/7 program is a state mandated program not a county mandated program. We as Sheriff's and Sheriff's Offices need to be able to recover these fees costs so we can be prudent with our budgeting processes and utilize our budgets for public safety efforts.

Senate Bill 2365 would add language to section 54-12-30 of the North Dakota Century Code that states that a district court judge or judicial referee may not waive program fees for offenders participating in the twenty-four seven sobriety program.” This language is needed until an alternative funding source can be implementing for a Sheriff’s Office to recover the costs if judges decide to waive the fees. I would respectfully ask the committee to support Senate Bill 2365. I want to thank the committee for their consideration and Senator Braunberger and bill sponsors for their support of our efforts.

Respectfully,

Jesse Jahner
Cass County Sheriff