

HOUSE BILL NO. 1306

Introduced by

Representatives Skarphol, Delmore, Thoreson

Senators Lyson, Nething, Robinson

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

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

10 **SECTION 1.** A new section to chapter 12-59 of the North Dakota Century Code is
11 created and enacted as follows:

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

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

16 3. The court shall provide as an explicit condition of every probation that the
17 defendant may not possess a firearm, destructive device, or other dangerous
18 weapon while the defendant is on probation. Except when the offense is a
19 misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-05, or
20 12.1-17-07.1, or chapter 14-07.1, the court may waive this condition of probation if
21 the defendant has pled guilty to, or has been found guilty of, a misdemeanor or
22 infraction offense, the misdemeanor or infraction is the defendant's first offense,
23 and the court has made a specific finding on the record before imposition of a
24 sentence or a probation that there is good cause to waive the condition. The court

- 1 may not waive this condition of probation if the court places the defendant under
2 the supervision and management of the department of corrections and
3 rehabilitation. The court shall provide as an explicit condition of probation that the
4 defendant may not willfully defraud a urine test administered as a condition of
5 probation. Unless waived on the record by the court, the court shall also provide
6 as a condition of probation that the defendant undergo various agreed-to
7 community constraints and conditions as intermediate measures of the department
8 of corrections and rehabilitation to avoid revocation, which may include:
- 9 a. Community service;
 - 10 b. Day reporting;
 - 11 c. Curfew;
 - 12 d. Home confinement;
 - 13 e. House arrest;
 - 14 f. Electronic monitoring;
 - 15 g. Residential halfway house; ~~or~~
 - 16 h. Intensive supervision program; or
 - 17 i. Participation in the twenty-four seven sobriety program.

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

20 If conviction for a violation of section 39-08-01 or equivalent ordinance is for a
21 second or subsequent offense, and the offender's driver's license is not subject to
22 an unrelated suspension or revocation, the director shall issue a temporary
23 restricted driver's license to an offender for the purpose of participation in the
24 twenty-four seven sobriety program upon submission of proof of financial
25 responsibility and proof of participation in the program. The director may
26 immediately revoke an offender's temporary driver's license upon proof by a
27 preponderance of the evidence the offender has violated a condition of the
28 twenty-four seven sobriety program.

29 **SECTION 4.** Five new sections to chapter 54-12 of the North Dakota Century Code are
30 created and enacted as follows:

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

7 **Twenty-four seven sobriety program guidelines and program fees.** The attorney
8 general, in cooperation with law enforcement, the judiciary, the department of corrections and
9 rehabilitation, and the traffic safety division of the department of transportation, may develop
10 guidelines, policies, and procedures to administer the twenty-four seven sobriety program and
11 to test offenders to enforce compliance with the sobriety program, including sobriety testing
12 twice per day seven days per week, electronic monitoring, including home surveillance and
13 remote electronic alcohol monitoring, urine testing and drug patch testing, and to establish
14 program fees, all of which are not subject to chapter 28-32.

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

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

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

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 the attorney general for the purpose of the twenty-four
8 seven sobriety program, for the biennium beginning July 1, 2009, and ending June 30, 2011.