

Sixty-first  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 subdivision to  
2 subsection 2 of section 28-32-01, a new subsection to section 39-06.1-11, and five new  
3 sections to chapter 54-12 of the North Dakota Century Code, relating to the authority of the  
4 parole board to use the twenty-four seven sobriety program as an intermediate sanction or  
5 condition of parole, temporary restricted driver's permits, and establishment of a statewide  
6 twenty-four seven sobriety program by the attorney general; to amend and reenact  
7 subsection 3 of section 12.1-32-07 of the North Dakota Century Code, relating to supervision of  
8 probationers; to provide an appropriation; and to provide a continuing 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 subdivision to subsection 2 of section 28-32-01 of the North Dakota  
19 Century Code is created and enacted as follows:

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

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

24                   If an offender has been charged with, or convicted of, a second or subsequent  
25                   violation of section 39-08-01 or equivalent ordinance and the offender's driver's  
26                   license is not subject to an unrelated suspension or revocation, the director shall  
27                   issue a temporary restricted driver's permit to the offender only for the purpose of  
28                   participation in the twenty-four seven sobriety program upon submission of proof of  
29                   financial responsibility and proof of participation in the program by the offender. If  
30                   a court or the parole board finds that an offender has violated a condition of the  
31                   twenty-four seven sobriety program, the court or parole board may order the

1           temporary restricted driver's permit be revoked and take possession of the  
2           temporary restricted driver's permit. The court or the parole board shall send a  
3           copy of the order to the director who shall record the revocation of the temporary  
4           restricted driver's permit. Revocation of a temporary restricted driver's permit for  
5           violation of a condition of the twenty-four sobriety program does not preclude the  
6           offender's eligibility for a temporary restricted driver's license under any other  
7           provisions of this section.

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

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

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

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

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

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

14           **SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the  
15 general fund in the state treasury, not otherwise appropriated, the sum of \$546,000, or so much  
16 of the sum as may be necessary, to the attorney general for the purpose of the twenty-four  
17 seven sobriety program, for the biennium beginning July 1, 2009, and ending June 30, 2011.