

**100TH GENERAL ASSEMBLY****State of Illinois****2017 and 2018****SB0080**

Introduced 1/12/2017, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

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Creates the 24/7 Sobriety and Drug Monitoring Program Act. Provides that there is created a statewide 24/7 sobriety and drug monitoring program administered by the probation department in counties that have adopted the program. Provides that a court in a participating county, as a condition of bond, pretrial release, sentence, suspended sentence, probation, or conditional discharge, may: (1) require a person who has been charged, pled guilty, or convicted of a crime in which the abuse of alcohol or drugs was a contributing factor in the commission of the crime to abstain from alcohol or drugs for a specific period of time; and (2) require the person to be subject to testing to determine the presence of alcohol or drugs in his or her body: (A) at least twice a day at a central location where immediate sanctions may be applied; (B) if twice a day testing creates a documented hardship or is geographically impractical by an alternate method as determined by the court and consistent with this Section in which timely sanctions may be effectively applied; or (C) if testing only for drugs, as frequently as practicable, as determined by the court. Provides that the Division of Probation Services of the Supreme Court shall assist in the creation and administration of the 24/7 sobriety and drug monitoring program in the manner provided in this Act in the participating counties. Provides that the Division shall also assist participating counties in which a 24/7 program exists in determining alternatives to incarceration. Provides that the probation department in the participating county may designate a third party to provide the testing services. Effective immediately.

LRB100 03484 RLC 13489 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the 24/7
5 Sobriety and Drug Monitoring Program Act.

6 Section 5. Definitions. As used in this Act:

7 "Division" means the Division of Probation Services of the
8 Supreme Court.

9 "Immediate sanction" means a sanction that is applied
10 within minutes of a noncompliant test event.

11 "Participating county" means a county that chooses to
12 participate in a 24/7 program.

13 "Probation department" means the probation department of
14 any participating county.

15 "Testing" means a procedure for determining the presence
16 and level of alcohol or a drug in a person's breath or body
17 fluid, including blood, urine, saliva, or perspiration, and
18 includes any combination of the use of breath testing, drug
19 patch testing, urine analysis testing, saliva testing, or
20 continuous or transdermal alcohol monitoring, and includes use
21 of alternate body fluids and testing methodologies consistent
22 with Section 10 of this Act, which may be approved for use.

23 "24/7 sobriety and drug monitoring program" or "24/7

1 program" means the 24/7 sobriety and drug monitoring program
2 under Section 10 of this Act.

3 "Timely sanction" means a sanction applied within hours or
4 days after a noncompliant test event, but the period of time
5 must be as short as possible and may not exceed 5 days.

6 Section 10. Sobriety and drug monitoring program created.

7 (a) There is created a statewide 24/7 sobriety and drug
8 monitoring program administered by the probation department in
9 counties that have adopted the program.

10 (b) A court in a participating county, as a condition of
11 bond, pretrial release, sentence, suspended sentence,
12 probation, or conditional discharge, may:

13 (1) require a person who has been charged, pled guilty,
14 or convicted of a crime in which the abuse of alcohol or
15 drugs was a contributing factor in the commission of the
16 crime to abstain from alcohol or drugs for a specific
17 period of time; and

18 (2) require the person to be subject to testing to
19 determine the presence of alcohol or drugs in his or her
20 body:

21 (A) at least twice a day at a central location
22 where immediate sanctions may be applied; or

23 (B) if twice a day testing creates a documented
24 hardship or is geographically impractical by an
25 alternate method as determined by the court and

1 consistent with this Section in which timely sanctions
2 may be effectively applied; or

3 (C) if testing only for drugs, as frequently as
4 practicable, as determined by the court.

5 (c)(1) The core components of the statewide 24/7 program
6 must include use of a primary testing methodology for the
7 presence of alcohol or drugs that:

8 (A) best facilitates the ability to apply immediate
9 sanctions for noncompliance; and

10 (B) is available at an affordable cost.

11 (2) In cases of hardship or when a program participant is
12 rewarded with less stringent testing requirements, testing
13 methodologies with timely sanctions for noncompliance may be
14 utilized. For purposes of this subsection, hardship shall be
15 determined by documentation and consideration of the following
16 factors, including whether:

17 (A) a continuous remote transdermal alcohol monitoring
18 device is available;

19 (B) the participant is capable of paying the fees and
20 costs associated with continuous remote transdermal
21 alcohol monitoring;

22 (C) the participant is capable of wearing the device;
23 and

24 (D) the participant does not qualify for twice-daily
25 breath tests because of one or more of the following:

26 (i) the participant lives in a rural area and

1 submitting to twice-daily breath tests would be unduly
2 burdensome; or

3 (ii) the participant's employment requires job
4 performance at a location remote from the testing
5 location and submitting twice-daily breath tests would
6 be unduly burdensome.

7 (d) The Division shall assist in the creation and
8 administration of the 24/7 sobriety and drug monitoring program
9 in the manner provided in this Act in the participating
10 counties. The Division shall also assist participating
11 counties in which a 24/7 program exists in determining
12 alternatives to incarceration.

13 (e) The probation department in the participating county
14 may designate a third party to provide the testing services.

15 (f) The probation department of participating counties
16 shall establish the testing locations.

17 Section 15. Administrative guidelines and testing fee.

18 (a) The Division shall adopt guidelines for the
19 implementation and administration of a 24/7 program by a county
20 probation department. The guidelines must:

21 (1) provide for the nature and manner of testing and
22 the procedures and apparatus to be used for testing;

23 (2) recommend reasonable participant, enrollment, and
24 testing fees for the program, including the collection of
25 fees to pay the cost of installation, monitoring, and

1 deactivation of any testing device. The recommended fees
2 shall be as low as possible, but shall be set so that the
3 total of the fees and other funds credited to the local
4 program account defray the entire expense of the program,
5 including costs to the Division;

6 (3) recommend that participating counties be allowed
7 to accept gifts or donations, or apply for any available
8 public or private grants to support 24/7 program
9 activities, including those opportunities available under
10 23 U.S.C. 405;

11 (4) recommend a process for determination, management,
12 and funding of indigent participants;

13 (5) recommend procedures for the establishment and use
14 of local program accounts for the deposit of fees collected
15 under the 24/7 program; and

16 (6) identify program best practices as recognized by
17 leaders with significant experience implementing 24/7
18 sobriety programs in other states. The best practices
19 should include suggested sanctions for program
20 noncompliance and violations.

21 (b) The final rules and procedures applicable to any 24/7
22 sobriety program shall be those adopted by the county board in
23 participating counties.

24 Section 20. Data management system.

25 (a) The Division shall make recommendations to

1 participating counties regarding a 24/7 sobriety and drug
2 monitoring program data management system to manage testing,
3 test events, test results, data access, fees, fee payments, and
4 any required reports.

5 (b) The data management system may include, but is not
6 limited to, the following:

7 (1) a secure management application;

8 (2) support of breath testing, continuous remote
9 transdermal alcohol monitoring, drug patch testing, and
10 urinalysis testing;

11 (3) capability of tracking and storing events,
12 including but not limited to, participant enrollment,
13 testing activity, accounting activity, and participating
14 agency activity; and

15 (4) capability of generating reports of system fields
16 and data, and allow reports to be generated as needed and
17 on a scheduled basis.

18 (c) The data management system must contain sufficient
19 security protocols to protect a person's personal information
20 from unauthorized use.

21 Section 25. Authority of court to order participation in
22 sobriety and drug monitoring program.

23 (a) Any county may utilize the 24/7 program.

24 (b) Except when a convicted offender is subject to a
25 mandatory minimum period of incarceration, a court in any

1 participating county may stay any sanctions imposed against an
2 offender while the offender is in compliance with the 24/7
3 program.

4 (c) When a person charged with or convicted of any crime in
5 which the abuse of alcohol or drugs was a contributing factor
6 in the commission of the crime, including the offense of
7 driving under the influence of alcohol or drugs, the court in
8 any participating county may condition the granting of any
9 bond, pretrial release, sentence, suspended sentence,
10 probation, or conditional discharge upon participation in the
11 24/7 sobriety and drug monitoring program and payment of the
12 fees required by Section 30.

13 (d) When a person has been charged with the offense of
14 driving under the influence of alcohol or drugs in a
15 participating county, and the person is released on bond
16 without appearing before a judge, at that person's first court
17 appearance a judge may impose a requirement of participation in
18 a 24/7 sobriety and drug monitoring program as a condition of
19 continued release on bond.

20 (e) A court order requiring a person to participate in a
21 24/7 sobriety and drug monitoring program under this Act shall
22 be independent of and shall create no limitations on the
23 authority of the Secretary of State to impose sanctions on that
24 person's driving privileges.

25 Section 30. Collection, distribution, and use of testing

1 fees.

2 (a) Other than fees paid directly to an entity providing a
3 transdermal alcohol monitoring device or other detection or
4 testing mechanism, the probation department of a participating
5 county shall collect all fees required by the county board and
6 deposit the fees into the county's 24/7 program account or any
7 other account as directed by the county board.

8 (b) Five percent of all fees collected by the probation
9 department shall be remitted to the Division to offset its
10 costs in the administration of this program. All remaining fees
11 collected by the probation department shall be used by the
12 county to pay for expenses incurred in the creation and
13 operation of the 24/7 program.

14 Section 35. Noncompliance.

15 (a) Upon failure of a person to submit to or pass a test
16 under the 24/7 program, a peace officer or probation officer
17 shall complete a written statement establishing that the
18 person, in the judgment of the officer, violated a condition of
19 release or a condition of the 24/7 program by failing to submit
20 to or pass a test. A peace officer shall immediately arrest the
21 person without warrant after completing or receiving the
22 written statement.

23 (b) A person taken into custody under this Section shall
24 appear before a court within a reasonable time and shall not be
25 released unless the person has made a personal appearance

1 before a court.

2 Section 40. Program coordinator and management group.

3 (a) The Division shall designate one or more persons to be
4 its 24/7 program coordinator.

5 (b) The Division shall establish a 24/7 sobriety and drug
6 monitoring program management group. The group must include:

7 (1) a representative of the Division;

8 (2) 2 representatives from participating counties, one
9 from a rural county and one from an urban county;

10 (3) a representative of the circuit court judges;

11 (4) a representative of appellate court judges;

12 (5) a representative of the prosecutorial bar; and

13 (6) a representative of the criminal defense bar.

14 (c) The Director of the Division and the 24/7 coordinator
15 shall meet at least annually with the 24/7 sobriety and drug
16 monitoring program management group to review the program and
17 administrative guidelines.

18 Section 45. Pre-existing programs. Any county that has in
19 place a sobriety and drug monitoring program at the time of the
20 effective date of this Act may continue to operate that program
21 without being subject to the provisions of this Act.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.

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Statutes amended in order of appearance

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New Act