

24-7 Sobriety Programs

Alcohol is a contributing factor in approximately one-third of fatal traffic accidents nationwide, and the recidivism rate among impaired drivers is a concern. In Iowa, there were 107 fatalities involving alcohol in 2016, or 26.5% of all traffic fatalities.¹ During the calendar years 2007 to 2016, Iowa averaged over 2,681 alcohol-related crashes per year, with an average of 98 fatalities and over 1,600 injuries.² Statistics over the years show a steady decline nationally in alcohol-related accidents and fatalities until the year 2010. Since 2010, the number of fatalities and the fatality rate per 100 million vehicle miles traveled has leveled off. Even though the number of alcohol-related accidents and fatalities has been steady, the average level of blood alcohol content (BAC) recorded by law enforcement has slowly increased over the last five years, from .159 in 2012 to .163 in 2016. Blood alcohol content is the concentration of alcohol in the bloodstream (expressed as a percentage), and is used to determine whether a person is legally intoxicated.

It is unlawful to operate a motor vehicle in Iowa while under the influence of an alcoholic beverage or other drug or a combination of such substances, while having a BAC of .08 or more, or while having any amount of a controlled substance in one's body. Iowa Code chapter [321J](#) contains the operating while intoxicated (OWI) laws for the State of Iowa. The majority of OWI infractions are for operating with a BAC of .08. It is a serious misdemeanor for the first offense, an aggravated misdemeanor for a second offense, and a Class D felony for a third and each subsequent offense.

In Iowa, conviction of OWI can be punishable by imprisonment, probation, assessment of a fine, revocation of the offender's driver's license, assignment to substance abuse evaluation and treatment, a driving course, a reality education substance abuse prevention program, additional sentencing terms and conditions, and motor vehicle impoundment or immobilization. The number of OWI convictions has decreased since 2005, and Iowa experienced a decrease in OWI convictions from 2015 to 2016. There were 8,599 OWI 1st offense convictions in 2015; this decreased by 3.9% to 8,264 convictions in 2016. There were 2,366 OWI 2nd offense convictions in 2015; this decreased by 5.5% to 2,235 convictions in 2016. There were 663 OWI 3rd and subsequent offense convictions in 2015; this decreased by 8.3% in 2016. While the number of convictions is decreasing, the rising average BAC, the number of fatalities, and the severity of alcohol-related accidents have been causes for concern within the public safety realm.

The initial 24/7 Sobriety Program, a unique approach to handling the issue of repeat OWI offenders, was introduced in South Dakota in 2005 and expanded statewide in 2007. The Program implements a strict expectation of alcohol abstinence, combined with immediate jail time punishment of one to two days if the offender fails a breath test or fails to appear for a breath test. Participants in this Program are usually motivated to change their behavior while maintaining their employment and family responsibilities. While it is possible for a person to continue drinking small amounts of alcohol and pass twice-a-day breath tests while in the 24/7 Sobriety Program, the Program is geared toward the population of repeat drunk driving offenders who are generally unable to moderate their drinking to small amounts.

In South Dakota, the 24/7 Sobriety Program requires a judge's approval for a participant to enroll. Participants can avoid incarceration by abstaining from alcohol use. Participation in the Program is a prerequisite for the issuance of work permits for repeat offenders and for first-time offenders with a BAC of .17 or over. Placement in the Program may also be required as a condition of bond, sentence, probation, parole, and child custody or visitation orders.³ The main nucleus of the Program is that the participant is required to take twice-daily breath tests at 12-hour intervals at the local sheriff's office or an approved testing site.

¹ Iowa Department of Transportation, www.iowadot.gov/mvd/stats/fatalcrashes.pdf.

² Ibid.

³ Roland Loudenburg, Gregg Drube, Gary Leonardson, Jeffrey Bathke; South Dakota 24/7 Sobriety Program Evaluation Supplemental Findings Report (Mountain Plains Evaluation, LLC 2012).

More Information

Legislative Services Agency Legal Guide to OWI: www.legis.iowa.gov/docs/publications/LG/801532.pdf

Iowa Department of Transportation: www.iowadot.gov/#/services

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Additional requirements may include alcohol monitoring ankle bracelets, ignition interlock devices, drug patches, and random urine testing. Participants are required to pay for the costs of the testing and monitoring. Average costs are \$4 per day for twice-daily breath tests, \$10 for a urinalysis test, \$40 for a drug patch, \$40 for activation of an ankle bracelet, and \$6 per day for bracelet monitoring. Violation of a breath test, or failure to appear at a scheduled test, could lead to immediate revocation of bond, parole, or probation, and immediate incarceration in jail for one to two days.

In South Dakota, two separate studies show that the 24/7 Sobriety Program has reduced recidivism by sizeable amounts. Through an evaluation period from 2003 to 2011, 99.3% of breath tests administered were passed successfully. During that same time period, actual repeat driving under the influence (DUI) arrests in South Dakota were reduced by 12.0%. In an analysis of 24/7 Sobriety Program participants with at least 30 consecutive days of testing, when compared to nonparticipants, second conviction DUI recidivism among participants declined by 62.0% (from 14.6% to 5.5%), third conviction DUI recidivism declined by 43.0% (from 16.5% to 9.3%), and fourth conviction DUI recidivism declined by 47.0% (from 20.9% to 11.1%).⁴

Also in South Dakota, from 2005 to 2014, the number of fatal and injury crashes that were alcohol-related decreased 23.5%, from 614 to 470 crashes. Driving under the influence arrests decreased in that same time period from 10,174 to 9,450, a decrease of 7.2%.⁵ Additionally, reported traffic crashes involving men between the ages of 18-40 years decreased significantly since the advent of the 24/7 Sobriety Program.

Montana is another state that has implemented the 24/7 Sobriety Program with success.⁶ In a legal challenge to the 24/7 Sobriety Program in Montana, the Montana Supreme Court upheld the Program, but stated that a judge must do an individual assessment to determine whether the Program is appropriate for a defendant.⁷ Limitations of the Program evaluations include the fact that given the relatively short amount of time the Program has been in effect, it is unknown if the deterrent impacts of frequent testing may fade over time as offenders are released from the Program. Also, it is speculated that the 24/7 Sobriety Program may be effective only for certain types of offenders, specifically repeat offenders.

Iowa Law

[Senate File 444](#) was enacted in 2017, and establishes a 24/7 Sobriety Program. Provisions of the Act include:

- The Department of Public Safety (DPS) is directed to establish a statewide sobriety and drug monitoring program (also known as a 24/7 Sobriety Program).
- Local jurisdictions are allowed to apply for participation in the 24/7 Sobriety Program, and if approved, the DPS is required to assist the local jurisdictions in setting up and administering the Program.
- Participating law enforcement agencies are to set up a Sobriety Program Account to collect participant fees.
- The DPS is required to provide and approve the use of a program data management system to manage testing, test events, test results, data access, fees, collection of fee payments, and the submission and collection of any required reports.

The Judicial Branch, the Department of Corrections (DOC), and the Board of Parole (BOP) may order or place a participant in the 24/7 Sobriety Program as a condition of any bond or pretrial release, receipt of a suspended sentence or probation, or as a condition of parole. An eligible offense for placement in a 24/7 Sobriety Program includes:

- A first offense in which the offender's BAC is higher than .15.
- A first offense in which an accident resulted in personal injury or property damage.
- A first offense in which the offender refused to submit to a chemical test.
- A second or subsequent offense.

A person who has been charged with, pled guilty to, or been convicted of an eligible offense as outlined above, but has not been required to participate in the 24/7 Sobriety Program, may voluntarily request to participate in a participating jurisdiction. A participant in the Program must also install an ignition interlock device on all motor vehicles owned or operated.

The DPS is required to submit a report to the General Assembly outlining the effectiveness of the Program and making recommendations by December 1, 2021. The 24/7 Sobriety Program will be repealed as of July 1, 2022. The cost of the Program to the General Fund is estimated to be minimal:

- The Department of Transportation estimates that it will cost \$4,200 to revise the OWI sanctions program.
- The DOC estimates that it would incur \$400 in programming costs for the Iowa Corrections Offender Network system to support the BOP parole condition module. The additional marginal cost related to one additional Class C felony prison admission per year is estimated to be \$18,000.

Costs to the DPS for developing and administering a 24/7 Sobriety Program will be paid for by participation fees that will be set at an amount sufficient to pay for the Program costs. These fees will be collected by the local participating jurisdictions and deposited into a Sobriety Program Account. Federal grant funding through the National Highway Traffic Safety Administration may be available to Iowa with the establishment of a 24/7 Sobriety Program.

⁴ Ibid.

⁵ 2014 South Dakota Motor Vehicle Traffic Crash Summary, South Dakota Department of Public Safety, Office of Highway Safety/Office of Accident Records.

⁶ Montana Department of Justice, Attorney General's Office.

⁷ Spady vs. State of Montana, 354 P.3d 590, 2015 MT 218.