

901D.3 Program created.

1. The department of public safety shall establish a statewide sobriety and drug monitoring program to be used by participating jurisdictions, which shall be available twenty-four hours per day, seven days per week. Pursuant to the provisions of [this chapter](#), a court or governmental entity, or an authorized officer thereof, within a participating jurisdiction may, as a condition of bond, pretrial release, sentence, probation, or parole, do all of the following:

a. Require a person who has been charged with, pled guilty to, or been convicted of an eligible offense to abstain from alcohol and controlled substances for a period of time.

b. Require the person to be subject to testing to determine whether alcohol or a controlled substance is present in the person's body in the following manner:

(1) At least twice per day at a central location where an immediate sanction can be effectively applied.

(2) Where testing under subparagraph (1) creates a documented hardship or is geographically impractical, by an alternative method approved by the department and consistent with [this section](#) where a timely sanction can be effectively applied.

2. A person wishing to participate in the program who has been charged with, pled guilty to, or been convicted of an eligible offense, but has not been required by a court or governmental entity to participate in the program, may apply to the court or governmental entity of the participating jurisdiction on a form created by the participating jurisdiction, and the court or governmental entity may order the person to participate in the program as a condition of bond, pretrial release, sentence, probation, or parole. The application form shall include an itemization of all costs associated with participation in the program.

3. The program shall be evidence-based and shall satisfy at least two of the following requirements:

a. The program is included in the United States substance abuse and mental health services administration's national registry of evidence-based programs and practices.

b. The program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome.

c. The program has been documented as effective by informed experts and other sources.

4. a. The core components of the program shall include the use of a primary testing methodology for determining the presence of alcohol or a controlled substance in a person that best facilitates the ability of a law enforcement agency to apply immediate sanctions for failed test results and that is available at an affordable cost.

b. In cases of documented hardship or geographic impracticality, or in cases where a program participant has received less stringent testing requirements, testing methodologies that best facilitate the ability of a law enforcement agency to apply timely sanctions for noncompliant test results may be utilized. For purposes of [this section](#), hardship or geographic impracticality shall be determined by documentation and consideration of the following factors:

(1) Whether a testing device is available.

(2) Whether the participant is capable of paying the fees and costs associated with the testing device.

(3) Whether the participant is capable of wearing the testing device.

(4) Whether the participant fails to qualify for testing twice per day because of one or more of the following:

(a) The participant lives in a rural area and submitting to testing twice per day would be unduly burdensome.

(b) The participant's employment requires the participant's presence at a location remote from the testing location and submitting to testing twice per day would be unduly burdensome.

(c) The participant has repeatedly violated the requirements of the program while submitting to testing twice per day and poses a substantial risk of continuing to violate the requirements of the program.

5. A jurisdiction wishing to participate in the program shall submit an application to

the department. A jurisdiction shall not participate in the program unless the jurisdiction's application for participation has been approved by the department. If a jurisdiction is approved for participation in the program, the department shall assist the jurisdiction in setting up and administering the program in that jurisdiction in compliance with [this chapter](#).

6. *a.* If a jurisdiction participates in the program, the participating jurisdiction or a law enforcement agency of the participating jurisdiction may designate a third party to provide testing services or to take any other action required or authorized to be provided by the participating jurisdiction or law enforcement agency under [this chapter](#), except a third-party designee shall not determine whether to participate in the program.

b. The participating jurisdiction, in consultation with the law enforcement agency of the participating jurisdiction, shall establish testing locations for the program.

7. Any efforts by the department to alter or modify a core component of the program shall include a documented strategy for achieving and measuring the effectiveness of the planned alteration or modification. Before the department alters or modifies a core component of the program, a pilot program with defined objectives and timelines shall be initiated, and measurements of the effectiveness and impact of the proposed alteration or modification to a core component shall be monitored. The data shall be assessed and the department shall make a determination as to whether the stated goals of the alteration or modification were achieved and whether the alteration or modification should be formally implemented into the program.

[2017 Acts, ch 76, §5; 2020 Acts, ch 1059, §4, 5](#)

Referred to in [§901D.2, 901D.7](#)