

House File 2428 - Introduced

HOUSE FILE 2428
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 606)

A BILL FOR

1 An Act providing for the establishment of a statewide sobriety
2 and drug monitoring program to be used for certain criminal
3 offenders in participating jurisdictions, and providing a
4 penalty.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. LEGISLATIVE FINDINGS — PURPOSE.

2 1. The general assembly finds that operating a motor vehicle
3 in this state is a privilege, not a right. A person who wishes
4 to enjoy the benefits of this privilege shall accept the
5 corresponding responsibilities.

6 2. The general assembly declares that the purpose of this
7 Act is to do all of the following:

8 a. Protect the public health and welfare by reducing the
9 number of people on the highways of this state who operate a
10 motor vehicle under the influence of alcohol or a controlled
11 substance.

12 b. Protect the public health and welfare by reducing the
13 number of repeat offenders who commit crimes in which the abuse
14 of alcohol or a controlled substance is a contributing factor
15 in the commission of the crime.

16 c. Strengthen the pretrial and post-trial options available
17 to prosecutors and judges in responding to repeat offenders who
18 commit crimes in which the abuse of alcohol or a controlled
19 substance is a contributing factor in the commission of the
20 crime.

21 d. Assure the timely and sober participation of offenders
22 in judicial proceedings.

23 3. The general assembly declares that it is important to
24 have a centralized repository for all information related to
25 alcohol and controlled substance testing required by the laws
26 of this state or as a condition of bond, sentence, probation,
27 parole, or a work permit.

28 Sec. 2. Section 321J.4, subsections 2 and 4, Code 2016, are
29 amended to read as follows:

30 2. If a defendant is convicted of a violation of section
31 321J.2, and the defendant's driver's license or nonresident
32 operating privilege has not already been revoked under section
33 321J.9 or [321J.12](#) for the occurrence from which the arrest
34 arose, the department shall revoke the defendant's driver's
35 license or nonresident operating privilege for one year if the

1 defendant submitted to chemical testing and has had a previous
2 conviction or revocation under [this chapter](#) and shall revoke
3 the defendant's driver's license or nonresident operating
4 privilege for two years if the defendant refused to submit to
5 chemical testing and has had a previous revocation under this
6 chapter. The defendant shall not be eligible for any temporary
7 restricted license for forty-five days after the effective date
8 of revocation if the defendant submitted to chemical testing
9 and shall not be eligible for any temporary restricted license
10 for ninety days after the effective date of revocation if the
11 defendant refused chemical testing. The temporary restricted
12 license shall be issued in accordance with section 321J.20,
13 subsection 2. The department shall require the defendant to
14 install an ignition interlock device of a type approved by
15 the commissioner of public safety on all vehicles owned or
16 operated by the defendant, or require that the defendant be
17 a participant in and in compliance with a sobriety and drug
18 monitoring program established pursuant to chapter 901D, if
19 the defendant seeks a temporary restricted license at the
20 end of the minimum period of ineligibility. A temporary
21 restricted license shall not be granted by the department until
22 the defendant installs the ignition interlock device or is a
23 participant in a program established pursuant to chapter 901D.

24 4. Upon a plea or verdict of guilty of a third or subsequent
25 violation of [section 321J.2](#), the department shall revoke the
26 defendant's driver's license or nonresident operating privilege
27 for a period of six years. The defendant shall not be eligible
28 for a temporary restricted license for one year after the
29 effective date of the revocation. The department shall require
30 the defendant to install an ignition interlock device of a type
31 approved by the commissioner of public safety on all vehicles
32 owned or operated by the defendant, or require that the
33 defendant be a participant in and in compliance with a sobriety
34 and drug monitoring program established pursuant to chapter
35 901D, if the defendant seeks a temporary restricted license at

1 the end of the minimum period of ineligibility. A temporary
2 restricted license shall not be granted by the department until
3 the defendant installs the ignition interlock device or is a
4 participant in a program established pursuant to chapter 901D.

5 Sec. 3. Section 321J.9, subsection 2, paragraph b, Code
6 2016, is amended to read as follows:

7 b. The department shall require the defendant to install
8 an ignition interlock device of a type approved by the
9 commissioner of public safety on all vehicles owned or operated
10 by the defendant, or if the defendant's driver's license or
11 nonresident driving privilege has been revoked under subsection
12 1, paragraph "b", require that the defendant be a participant in
13 and in compliance with a sobriety and drug monitoring program
14 established pursuant to chapter 901D, if the defendant seeks a
15 temporary restricted license at the end of the minimum period
16 of ineligibility. A temporary restricted license shall not
17 be granted by the department until the defendant installs the
18 ignition interlock device or is a participant in a program
19 established pursuant to chapter 901D.

20 Sec. 4. Section 321J.12, subsection 2, paragraph d, Code
21 2016, is amended to read as follows:

22 d. A person whose license or privileges have been revoked
23 under [subsection 1](#), paragraph "b", for one year shall not be
24 eligible for any temporary restricted license for forty-five
25 days after the effective date of the revocation, and the
26 department shall require the person to install an ignition
27 interlock device of a type approved by the commissioner
28 of public safety on all vehicles owned or operated by the
29 defendant, or require that the person be a participant in and
30 in compliance with a sobriety and drug monitoring program
31 established pursuant to chapter 901D, if the defendant seeks a
32 temporary restricted license at the end of the minimum period
33 of ineligibility. The temporary restricted license shall
34 be issued in accordance with [section 321J.20, subsection 2](#).
35 A temporary restricted license shall not be granted by the

1 department until the defendant installs the ignition interlock
2 device or is a participant in a program established pursuant to
3 chapter 901D.

4 Sec. 5. Section 321J.17, subsections 1 and 3, Code 2016, are
5 amended to read as follows:

6 1. If the department revokes a person's driver's license
7 or nonresident operating privilege under [this chapter](#), the
8 department shall assess the person a civil penalty of two
9 hundred dollars. The money collected by the department under
10 this section shall be transmitted to the treasurer of state
11 who shall deposit one-half of the money in the separate fund
12 established in [section 915.94](#) and one-half of the money in the
13 general fund of the state. A temporary restricted license
14 shall not be issued unless an ignition interlock device has
15 been installed or the person is a participant in a sobriety and
16 drug monitoring program pursuant to [section 321J.4](#). Except as
17 provided in [section 321.210B](#), a temporary restricted license
18 shall not be issued or a driver's license or nonresident
19 operating privilege reinstated until the civil penalty has been
20 paid. A person assessed a penalty under [this section](#) may remit
21 the civil penalty along with a processing fee of five dollars
22 to a county treasurer authorized to issue driver's licenses
23 under [chapter 321M](#), or the civil penalty may be paid directly
24 to the department.

25 3. The department shall also require certification of
26 installation of an ignition interlock device of a type approved
27 by the commissioner of public safety on all motor vehicles
28 owned or operated by any person seeking reinstatement following
29 a second or subsequent revocation under [section 321J.4](#), [321J.9](#),
30 or [321J.12](#), or require that the person be a participant in
31 and in compliance with a sobriety and drug monitoring program
32 established pursuant to chapter 901D. The requirement for
33 the installation of an approved ignition interlock device or
34 participation in a program established pursuant to chapter 901D
35 shall be for one year from the date of reinstatement unless

1 a longer time period is required by statute. The one-year
2 period a person is required to maintain an ignition interlock
3 device or participate in a program established pursuant to
4 chapter 901D under this subsection shall be reduced by any
5 period of time the person held a valid temporary restricted
6 license during the period of the revocation for the occurrence
7 from which the arrest arose. The person shall not operate any
8 motor vehicle which is not equipped with an approved ignition
9 interlock device during the period in which an ignition
10 interlock device must be maintained, and the department
11 shall not grant reinstatement unless the person certifies
12 installation of an ignition interlock device as required in
13 this subsection, except when the person is participating in a
14 program established pursuant to chapter 901D.

15 Sec. 6. Section 321J.20, subsection 1, paragraph d, Code
16 2016, is amended to read as follows:

17 *d.* Following the applicable minimum period of ineligibility,
18 a temporary restricted license under this subsection shall not
19 be issued until the applicant installs an ignition interlock
20 device of a type approved by the commissioner of public safety
21 on all motor vehicles owned or operated by the applicant, or
22 until the applicant is a participant in and in compliance with
23 a sobriety and drug monitoring program established pursuant
24 to chapter 901D, in accordance with section 321J.2, 321J.4,
25 321J.9, or 321J.12. Installation of an ignition interlock
26 device under this subsection or participation in a program
27 established pursuant to chapter 901D shall be required for
28 the period of time for which the temporary restricted license
29 is issued and for such additional period of time following
30 reinstatement as is required under section 321J.17, subsection
31 3.

32 Sec. 7. Section 321J.20, subsection 2, paragraph b, Code
33 2016, is amended to read as follows:

34 *b.* A temporary restricted license issued under this
35 subsection shall not be issued until the applicant installs

1 an approved ignition interlock device on all motor vehicles
2 owned or operated by the applicant, or until the applicant
3 is a participant in and in compliance with a sobriety and
4 drug monitoring program established pursuant to chapter
5 901D. Installation of an ignition interlock device under
6 this subsection shall be required for the period of time for
7 which the temporary restricted license is issued, and for
8 such additional period of time following reinstatement as is
9 required under section 321J.17, subsection 3, unless the person
10 is participating in a program established pursuant to chapter
11 901D. However, a person whose driver's license or nonresident
12 operating privilege has been revoked under section 321J.21 may
13 apply to the department for a temporary restricted license
14 without the requirement of an ignition interlock device or
15 participation in a program established pursuant to chapter 901D
16 if at least twelve years have elapsed since the end of the
17 underlying revocation period for a violation of section 321J.2.

18 Sec. 8. NEW SECTION. 901D.1 Short title.

19 This chapter shall be known and may be cited as the "*Iowa*
20 *Sobriety and Drug Monitoring Program Act*".

21 Sec. 9. NEW SECTION. 901D.2 Definitions.

22 As used in this chapter, unless the context otherwise
23 requires:

24 1. "*Alcohol*" means an alcoholic beverage as defined in
25 section 321J.1.

26 2. "*Controlled substance*" means as defined in section
27 124.101.

28 3. "*Department*" means the department of public safety.

29 4. "*Immediate sanction*" means a sanction that is applied
30 within minutes of a failed test result.

31 5. "*Law enforcement agency*" means a law enforcement agency
32 charged with enforcement of the program created under this
33 chapter.

34 6. "*Participating jurisdiction*" means a county or other
35 governmental entity that chooses to participate in the program

1 created under this chapter.

2 7. "*Sobriety and drug monitoring program*" or "*program*" means
3 the program established pursuant to section 901D.3.

4 8. "*Testing*" means a procedure or set of procedures
5 performed to determine the presence of alcohol or a controlled
6 substance in a person's breath or bodily fluid, including
7 blood, urine, saliva, and perspiration, and includes any
8 combination of breath testing, drug patch testing, urine
9 analysis testing, saliva testing, and continuous or transdermal
10 alcohol monitoring. Subject to section 901D.3, the department
11 may approve additional testing methodologies or the testing of
12 alternative bodily fluids.

13 9. "*Timely sanction*" means a sanction that is applied within
14 hours or days after a failed test result. A timely sanction
15 shall be applied as soon as possible, but the period between
16 the failed test result and the application of the timely
17 sanction shall not exceed five days.

18 Sec. 10. NEW SECTION. 901D.3 **Program created.**

19 1. The department of public safety shall establish a
20 statewide sobriety and drug monitoring program to be used
21 by participating jurisdictions, which shall be available
22 twenty-four hours per day, seven days per week. Pursuant to
23 the provisions of this chapter, a court or governmental entity,
24 or an authorized officer thereof, within a participating
25 jurisdiction may, as a condition of bond, sentence, probation,
26 parole, or a work permit, do all of the following:

27 a. Require a person who has been charged with, pled guilty
28 to, or been convicted of a crime in which the abuse of alcohol
29 or a controlled substance was a contributing factor in the
30 commission of the crime, including but not limited to a
31 second or subsequent offense of operating while intoxicated in
32 violation of section 321J.2 or 321J.2A, to abstain from alcohol
33 and controlled substances for a period of time.

34 b. Require the person to be subject to testing to determine
35 whether alcohol or a controlled substance is present in the

1 person's body in the following manner:

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

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

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

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

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

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

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

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

32 (1) Whether a testing device is available.

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

35 (3) Whether the participant is capable of wearing the

1 testing device.

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

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

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

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

13 4. If a jurisdiction chooses to participate in the program,
14 the department shall assist the jurisdiction in setting up and
15 administering the program in that jurisdiction in compliance
16 with this chapter.

17 5. *a.* If a jurisdiction participates in the program, the
18 participating jurisdiction or a law enforcement agency of the
19 participating jurisdiction may designate a third party to
20 provide testing services or to take any other action required
21 or authorized to be provided by the participating jurisdiction
22 or law enforcement agency under this chapter, except a
23 third-party designee shall not determine whether to participate
24 in the program.

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

28 6. Any efforts by the department to alter or modify a core
29 component of the program shall include a documented strategy
30 for achieving and measuring the effectiveness of the planned
31 alteration or modification. Before the department alters or
32 modifies a core component of the program, a pilot program
33 with defined objectives and timelines shall be initiated, and
34 measurements of the effectiveness and impact of the proposed
35 alteration or modification to a core component shall be

1 monitored. The data shall be assessed and the department
2 shall make a determination as to whether the stated goals of
3 the alteration or modification were achieved and whether the
4 alteration or modification should be formally implemented into
5 the program.

6 Sec. 11. NEW SECTION. 901D.4 Rulemaking — fees.

7 The department may adopt rules pursuant to chapter 17A to
8 administer this chapter, including but not limited to rules
9 regarding any of the following:

10 1. Providing for the nature and manner of testing, including
11 the procedures and apparatus to be used for testing.

12 2. Establishing reasonable participant, enrollment, and
13 testing fees for the program, including fees to pay the costs
14 of installation, monitoring, and deactivation of any testing
15 device. The fees shall be set at an amount such that the fees
16 collected in a participating jurisdiction are sufficient to pay
17 for the costs of the program in the participating jurisdiction,
18 including all costs to the state associated with the program in
19 the participating jurisdiction.

20 3. Providing for the application, acceptance, and use of
21 public and private grants, gifts, and donations to support
22 program activities.

23 4. Establishing a process for the identification and
24 management of indigent participants.

25 5. Providing for the creation and administration of a
26 stakeholder group to review and recommend changes to the
27 program.

28 Sec. 12. NEW SECTION. 901D.5 Data management system.

29 1. The department shall provide for and approve the use
30 of a program data management system that shall be used by
31 the department and all participating jurisdictions to manage
32 testing, test events, test results, data access, fees, the
33 collection of fee payments, and the submission and collection
34 of any required reports.

35 2. The data management system shall include but is not

1 limited to all of the following features:

2 *a.* A secure, remotely hosted, demonstrated, internet-based
3 management application that allows multiple concurrent users to
4 access and input information.

5 *b.* The support of breath testing, continuous remote
6 transdermal alcohol monitoring, drug patch testing, and urine
7 analysis testing.

8 *c.* The capability to track and store events including
9 but not limited to participant enrollment, testing activity,
10 accounting activity, and participating law enforcement agency
11 activity.

12 *d.* The capability to generate reports of system fields and
13 data. The data management system shall allow reports to be
14 generated as needed and on a scheduled basis, and shall allow
15 reports to be exported over a network connection or by remote
16 printing.

17 *e.* The ability to identify program participants who have
18 previously been enrolled in a similar program in this state or
19 another state.

20 3. Unless otherwise required by federal law, all alcohol or
21 controlled substance testing performed as a condition of bond,
22 sentence, probation, parole, or a work permit shall utilize and
23 input results to the data management system.

24 4. The data management system shall contain sufficient
25 security protocols to protect participants' personal
26 information from unauthorized use.

27 Sec. 13. NEW SECTION. 901D.6 Authority to order program
28 participation.

29 1. A court or governmental entity, or an authorized officer
30 thereof, in a participating jurisdiction may utilize the
31 program as provided in this section. The program shall be a
32 preferred program for offenders charged with or convicted of a
33 second or subsequent offense of operating while intoxicated in
34 violation of section 321J.2 or 321J.2A, or a crime in which the
35 abuse of alcohol or a controlled substance was a contributing

1 factor in the commission of the crime.

2 2. If a person convicted of a second or subsequent offense
3 of operating while intoxicated has been required to participate
4 in the program, has financial liability coverage pursuant
5 to section 321.20B, and the minimum period of ineligibility
6 for issuance of a temporary restricted license has expired
7 pursuant to chapter 321J, the court may notify the department
8 of transportation that, as a participant in the program, the
9 person is eligible for a temporary restricted license pursuant
10 to section 321J.20.

11 3. A court may condition any bond or pretrial release
12 otherwise authorized by law for a person charged with a second
13 or subsequent offense of operating while intoxicated, or
14 with any crime in which the abuse of alcohol or a controlled
15 substance was a contributing factor in the commission of the
16 crime, upon participation in the program and payment of the
17 fees established pursuant to section 901D.4.

18 4. A court may condition the granting of a suspended
19 sentence or probation otherwise authorized by law for a person
20 convicted of a second or subsequent offense of operating
21 while intoxicated, or any crime in which the abuse of alcohol
22 or a controlled substance was a contributing factor in the
23 commission of the crime, upon participation in the program and
24 payment of the fees established pursuant to section 901D.4.

25 5. The board of parole, the department of corrections, or
26 a parole officer may condition parole otherwise authorized by
27 law for a person convicted of a second or subsequent offense of
28 operating while intoxicated, or any crime in which the abuse of
29 alcohol or a controlled substance was a contributing factor in
30 the commission of the crime, upon participation in the program
31 and payment of the fees established pursuant to section 901D.4.

32 **Sec. 14. NEW SECTION. 901D.7 Placement and enrollment.**

33 1. Subject to section 901D.6, a participant may be placed in
34 the program as a condition of bond, pretrial release, sentence,
35 probation, or parole.

1 2. An order or directive placing a participant in the
2 program shall include the type of testing required to be
3 administered in the program and the length of time that the
4 participant is required to remain in the program. The person
5 issuing the order or directive shall send a copy of the order
6 or directive to the law enforcement agency of the participating
7 jurisdiction.

8 3. Upon receipt of a copy of an order or directive,
9 a representative of the law enforcement agency of the
10 participating jurisdiction shall enroll a participant in the
11 program prior to testing.

12 4. At the time of enrollment, a representative of the law
13 enforcement agency of the participating jurisdiction shall
14 enter the participant's information into the data management
15 system described in section 901D.5. The representative of
16 the agency shall provide the participant with the appropriate
17 materials required by the program, inform the participant that
18 the participant's information may be shared for law enforcement
19 and reporting purposes, and provide the participant with
20 information related to the required testing, procedures, and
21 fees.

22 5. The participant shall sign a form stating that the
23 participant understands the program requirements and releases
24 the participant's information for law enforcement and reporting
25 purposes.

26 6. A participant shall report to the program for testing for
27 the length of time ordered by the court, the board of parole,
28 the department of corrections, or a parole officer.

29 **Sec. 15. NEW SECTION. 901D.8 Collection, distribution, and**
30 **use of fees.**

31 1. The law enforcement agency of a participating
32 jurisdiction shall do all of the following:

33 a. Establish and maintain a sobriety program account.

34 b. Collect the participant, enrollment, and testing fees
35 established pursuant to section 901D.4 and deposit the fees

1 and any other funds received for the program into the sobriety
2 program account for administration of the program.

3 2. A participant shall pay all fees directly to the law
4 enforcement agency of the participating jurisdiction.

5 3. a. The law enforcement agency shall distribute a
6 portion of the fees to any participating third-party designee
7 in accordance with the agreement between the agency and the
8 third-party designee.

9 b. The remainder of the fees collected shall be deposited in
10 the sobriety program account, and shall be used only for the
11 purposes of administering and operating the program.

12 Sec. 16. NEW SECTION. 901D.9 Noncompliance.

13 1. Upon the failure of a participant to submit to or pass a
14 test under the program, a peace officer, probation officer, or
15 parole officer shall complete a written statement establishing
16 that the participant, in the judgment of the officer, violated
17 a condition of release or a condition of the program by failing
18 to submit to or pass a test. A peace officer shall immediately
19 arrest the person without a warrant after completing or
20 receiving the written statement.

21 2. A person taken into custody pursuant to this section
22 shall appear before a court within a reasonable amount of time
23 and shall not be released unless the person has made a personal
24 appearance before a court.

25 3. The court may notify the department of transportation
26 of the person's noncompliance and direct the department
27 to withdraw any temporary restricted license issued to the
28 person and reinstate the remainder of any applicable license
29 suspension or revocation period provided by chapter 321J.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill directs the department of public safety (DPS) to
34 establish a statewide sobriety and drug monitoring program that
35 is available 24 hours per day, seven days per week. Under

1 the program, a court or governmental entity, as a condition
2 of bond, sentence, probation, parole, or a work permit, may
3 require a person who has been charged with, pled guilty to,
4 or been convicted of a crime in which the abuse of alcohol or
5 a controlled substance was a contributing factor, including a
6 second or subsequent offense of operating while intoxicated
7 (OWI), to abstain from alcohol and controlled substances for
8 a period of time.

9 The program requires a person to be subject to testing to
10 determine whether alcohol or a controlled substance is present
11 in the person's body at least twice per day at a central
12 location where an immediate sanction can be applied. Where
13 such testing creates a documented hardship or is geographically
14 impractical, an alternative method approved by DPS may be used.

15 Hardship or geographic impracticality is determined by
16 documentation and consideration of whether a testing device is
17 available, whether the participant is capable of paying the
18 fees and costs associated with the testing device, whether
19 the participant is capable of wearing the testing device, and
20 whether the participant fails to qualify for testing twice
21 per day because the participant lives in a rural area, the
22 participant's employment requires the participant's presence at
23 a location remote from the testing location, or the participant
24 has repeatedly violated the requirements of the program.

25 The bill requires the program to be evidence-based.

26 If a jurisdiction chooses to participate in the program, DPS
27 shall assist the jurisdiction in setting up and administering
28 the program. The participating jurisdiction shall establish
29 testing locations and may designate a third party to provide
30 testing services.

31 Any efforts by DPS to alter or modify the core components
32 of the program are required to include a documented strategy
33 for achieving and measuring the effectiveness of the planned
34 alteration or modification. Before the core components of the
35 program can be altered or modified, a pilot program must be

1 initiated and monitored.

2 The bill allows DPS to adopt rules providing for the nature
3 and manner of testing, establishing reasonable fees, providing
4 for the application, acceptance, and use of public and private
5 grants, gifts, and donations, establishing a process for the
6 identification and management of indigent participants, and
7 providing for the creation and administration of a stakeholder
8 group to review and recommend changes to the program.

9 The bill requires the amount of the fees to be set at
10 an amount such that the fees collected in a participating
11 jurisdiction are sufficient to pay for the costs of the program
12 in the participating jurisdiction, including all costs to the
13 state.

14 The bill further requires DPS to provide for and approve
15 the use of a program data management system to be used by DPS
16 and all participating jurisdictions to manage testing, test
17 events, test results, data access, fees, the collection of fee
18 payments, and the submission and collection of any required
19 reports. The bill provides for certain required features of
20 the data management system.

21 A court or a governmental entity in a participating
22 jurisdiction may utilize the program. A court may condition
23 any bond or pretrial release otherwise authorized by law for
24 a person charged with a second or subsequent offense of OWI,
25 or with any crime in which the abuse of alcohol or a controlled
26 substance was a contributing factor, upon participation in the
27 program and payment of the required fees. A court may also
28 condition the granting of a suspended sentence or probation
29 otherwise authorized by law for a person convicted of such a
30 crime upon participation in the program and payment of the
31 required fees.

32 Likewise, the board of parole, the department of
33 corrections, or a parole officer may condition parole otherwise
34 authorized by law for a person convicted of such a crime upon
35 participation in the program and payment of the required fees.

1 The bill requires an order or directive placing a
2 participant in the program to include the type of testing
3 required to be administered and the length of time that the
4 participant is required to remain in the program. At the
5 time of enrollment, a representative of the law enforcement
6 agency of a participating jurisdiction shall enter the
7 participant's information into the data management system. The
8 representative of the agency shall provide the participant with
9 the appropriate materials required by the program, inform the
10 participant that the participant's information may be shared
11 for law enforcement and reporting purposes, and provide the
12 participant with information related to the required testing,
13 procedures, and fees.

14 The bill provides that the law enforcement agency of a
15 participating jurisdiction shall establish and maintain a
16 sobriety program account, and collect the required fees. The
17 law enforcement agency shall distribute a portion of the fees
18 to any participating third-party designee in accordance with
19 the agreement between the agency and the third-party designee,
20 and the remainder of the fees collected shall be deposited
21 in the participating jurisdiction's sobriety program account
22 and shall be used only for the purposes of administering and
23 operating the program.

24 Upon the failure of a participant to submit to or pass a
25 test under the program, a peace officer, probation officer, or
26 parole officer shall complete a written statement establishing
27 that the participant, in the judgment of the officer, violated
28 a condition of release or a condition of the program by failing
29 to submit to or pass a test.

30 A peace officer shall immediately arrest the person without
31 a warrant after completing or receiving the written statement.
32 A person taken into custody shall appear before a court within
33 a reasonable amount of time and shall not be released unless
34 the person has made a personal appearance before a court.

35 The bill provides that as an alternative to the installation

1 of an ignition interlock device, a temporary restricted license
2 for a person convicted of a second or subsequent OWI may be
3 conditioned on participation in the program. Upon the failure
4 of a participant to submit to or pass a test under the program,
5 the court may notify the department of transportation (DOT)
6 of the person's noncompliance and direct the DOT to withdraw
7 the person's temporary restricted license and reinstate the
8 remainder of the license suspension period.