

**House Study Bill 606 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON BALTIMORE)

**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32 operating privilege has not already been revoked under section  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.