

**SB**

**82**

<TARGET><BILL>SB 82</BILL><SUBJECT>SB  
82</SUBJECT><COMM>SJUD29</COMM></TARGET>

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/20/15

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/1/15

Judiciary Committee considered SENATE BILL NO. 82

SB 82-ALCOHOL/SUBST ABUSE PROGRAM MITIGATION

"An Act relating to mitigating factors at sentencing."

and recommends:

- be replaced with CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title
- adopt previous CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DHS			✓	1
COR			✓	2

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Coghitt	✓			
	W. Jelechowski	✓			
	McEnroe	✓			
CHAIR:	McEnroe	✓			

# Alaska State Legislature



*Session:*  
State Capitol  
Suite 125  
Juneau, AK 99801  
Phone: (907) 465-2995  
Fax: (907) 465-6592

*Interim:*

716 W 4<sup>th</sup> Avenue, Suite 515  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
Fax: (907) 269-0249

Senator Lesil McGuire

## **SB 82 SPONSOR STATEMENT**

"An Act relating to mitigating factors at sentencing."

The 24/7 program is an evidence based abstinence program that has been very successful in Alaska. With over 20,150 PBT Alcohol tests administered there have only been 22 failed PBT tests. Their policy is based on abstinence, continued monitoring, immediate consequence for violations, personal responsibility and accountability, data base collection; communication; monitoring; change of behavior/choices and immediate sanctions.

SB 82 allows Judges the ability to consider successful completion of the 24/7 sobriety program as a mitigating factor at time of sentencing.

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: SB 82  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB082CS-ACS-TRC-03-26-15  
Title: ALCOHOL/SUBST ABUSE PROGRAM  
MITIGATION  
Sponsor: MCGUIRE  
Requester: Senate Judiciary Committee

Department: Judiciary  
Appropriation: Alaska Court System  
Allocation: Trial Courts  
OMB Component Number: 768

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>	<b>FY 2016</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial version.

Prepared By:	Nancy Meade, General Counsel	Phone:	(907)463-4736
Division:	Alaska Court System	Date:	03/26/2015 12:00 PM
Approved By:	Nancy Meade for Christine Johnson, Administrative Director	Date:	03/26/15
Agency:	Alaska Court System		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. SB82

**Analysis**

Senate Bill 82 adds a new mitigating factor, factor number 21, to the existing list in AS 12.55.155(d). These are factors that, if proven, the court shall consider when a defendant is being sentenced after being convicted of a class A, B, or C felony, or certain sexual and other felonies. If a mitigating factor is proven, the court may impose a sentence that is below the presumptive sentencing ranges set out in AS 12.55.125.

The new mitigating factor added in SB 82 allows a defendant to establish that he or she successfully complied with the conditions of the alcohol and substance abuse program run by the Department of Health and Human Services (this program is commonly referred to as the "24/7 program") as a condition of their release on bail before the sentencing.

The courts currently hear arguments from the parties concerning an appropriate sentence, and many factors are discussed and considered at these hearings. Having an additional factor to be considered in certain cases will change the items under discussion in some sentencing hearings, but will not materially impact our operations.

The court system can implement this bill with no fiscal impact, and therefore submits this zero fiscal note.

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: SB 82  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB082-DHSS-ASAP-03-27-15  
Title: ALCOHOL/SUBST ABUSE PROGRAM  
MITIGATION  
Sponsor: MCGUIRE  
Requester: Senate Judiciary Committee

Department: Department of Health and Social Services  
Appropriation: Behavioral Health  
Allocation: Alcohol Safety Action Program (ASAP)  
OMB Component Number: 305

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed? n/a

**Why this fiscal note differs from previous version:**

Not applicable, initial version.
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Prepared By:	Albert E. Wall, Director	Phone:	(907)465-4841
Division:	Behavioral Health	Date:	03/26/2015 02:32 PM
Approved By:	Sarah Woods, Deputy Director Finance & Management Services	Date:	03/27/15
Agency:	Health & Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. SB082

**Analysis**

This bill adds successful compliance "with the conditions of an alcohol and substance abuse monitoring program established under AS 47.38.020" to the list of mitigating factors Alaska courts must consider when deciding whether or not to sentence a defendant below the minimum of the presumptive range set out in AS 12.55.125 ("Sentences of imprisonment for felonies").

The referenced program exists within the Department of Health and Social Services, but this bill addresses only criminal court sentencing requirements. Passage of this legislation would not impact DHSS programs or services.

# 24/7 Sobriety Program

An approach for the judicial system to reduce the influence of drug and alcohol abuse in crime



The Problem and  
Costs to Society



A Solution: the 24/7  
Sobriety Program



Tools and Products

# What is a 24/7 Sobriety Program ?

- ❑ A court ordered alcohol and drug testing management tool designed to deal with problem drinkers/ drug users.
- ❑ The goal of the program is to enhance behavior modification of the participant, reduce jail costs, reduce DUI recidivism, and increase public safety within your community;
- ❑ Requires those arrested for or convicted of a second or subsequent violation of RCW 46.61.502/504 (DUI) to abstain from alcohol and drugs, take twice-a-day on-site breath tests, use a remote electronic alcohol monitoring device, or submit to urinalysis testing.
- ❑ All testing fees are paid by the participant and the majority of the funds collected are retained by the local jurisdiction.
- ❑ Serves as an alternative to incarceration or in addition to other court ordered activities, is cost effective, allows participants to work and remain in the community, drive if eligible, care for their families and stay out of the criminal justice system by changing their behaviors;
- ❑ Violation of program rules leads to predetermined, swift and certain sanctions.

# South Dakota 24/7 Program

- <http://www.youtube.com/watch?v=Qn04sxF6-wQ>





# WASHINGTON'S 24/7 SOBRIETY PROGRAM

- ▣ Established by 2013 Legislature
- ▣ Codified in RCW 36.28A.300 - 390
- ▣ Administered by WASPC and WTSC
- ▣ Five pilot agencies selected to begin the program;
  - Chelan County Sheriff's Office
  - Spokane County Sheriff's Office
  - Thurston County Sheriff's Office
  - Kent Police Department
  - Centralia Police Department

## RCW 10.21.055

When any person charged with or arrested for a violation of RCW [46.61.502](#), [46.61.504](#), [46.61.520](#), or [46.61.522](#), in which the person has a prior offense as defined in RCW [46.61.5055](#) and the current offense involves alcohol, is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release shall require, as a condition of release, that person to (a) have a functioning ignition interlock device installed on all motor vehicles operated by the person, with proof of installation filed with the court by the person or the certified interlock provider within five business days of the date of release from custody or as soon thereafter as determined by the court based on availability within the jurisdiction; or (b) comply with 24/7 sobriety program monitoring, as defined in RCW [36.28A.330](#); or both.

## “24/7 electronic alcohol/drug monitoring”

Means the monitoring by the use of any electronic instrument that is capable of determining and monitoring the presence of alcohol or drugs in a person's body and includes any associated equipment a participant needs in order for the device to properly perform. Monitoring may also include mandatory urine analysis tests as ordered by the court.

# “Participant”

Means a person who has one or more prior convictions for a violation of RCW 46.61.502 (Driving Under the Influence) or 46.61.504 (Physical Control) and who has been ordered by a court to participate in the 24/7 sobriety program.

SB 6413, passed in the 2014 Leg session, allows judges to place defendants, following a 1<sup>st</sup> DUI conviction, into 24/7 if the local jurisdiction has a WASPC verified program.

# “Participation agreement”

Means a written document executed by a participant agreeing to participate in the 24/7 sobriety program in a form approved by the Washington association of sheriffs and police chiefs that contains the following information:

- The type, frequency, and time period of testing;
- The fees and payment procedures required for testing; and
- The responsibilities and obligations of the participant under the 24/7 sobriety program.

# “Participating agency” RCW 36.28A.330

Means a sheriff’s office or a designated entity named by a sheriff that has agreed to participate in the 24/7 sobriety program by enrolling participants, administering one or more of the tests, and submitting reports to the Washington association of sheriffs and police chiefs.

# 24/7 SOBRIETY ACCOUNT

## RCW 36.28A.320

- ▣ There is hereby established in the state treasury the 24/7 sobriety account. The account shall be maintained and administered by the Washington traffic safety commission to reimburse the state for costs associated with establishing the program and the Washington association of sheriffs and police chiefs for ongoing program administration costs.

# FUND COLLECTION AND DISPURSEMENT

- Funds in the 24/7 sobriety account shall be distributed as follows:
  - Any daily user fee, installation fee, deactivation fee, enrollment fee, or monitoring fee collected under the 24/7 sobriety program shall be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and deposited with the county or city treasurer of the proper county or city, the proceeds of which shall be applied and used only to defray the recurring costs of the 24/7 sobriety program including maintaining equipment, funding support services, and ensuring compliance, and

## 24/7 FUNDS

- ▣ Any participation fee collected in the administration of testing under the 24/7 sobriety program to cover program administration costs incurred by the Washington association of sheriffs and police chiefs shall be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and deposited in the 24/7 sobriety account.
- ▣ All applicable fees shall be paid by the participant contemporaneously or in advance of the time when the fee becomes due.

# NO WAIVER OR REDUCTION OF FEES - RCW 36.28A.380

- ▣ The court shall not waive or reduce fees or associated costs charged for participation in the 24/7 sobriety program.

# PROGRAM VIOLATIONS

## RCW 36.28A.390

A participant who violates the terms of participation in the 24/7 sobriety program or does not pay the required fees or associated costs shall:

- Receive a written warning notice for a first violation;
- Serve a term of two days imprisonment for a second violation;
- Serve a term of up to five days imprisonment for a third violation;
- Serve a term of up to ten days imprisonment for a fourth violation;
- For a fifth violation, the participant shall serve the entire remaining sentence imposed by the court.

## RCW 36.28A.390

A sheriff or chief, or the designee of a sheriff or chief, who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program or has not paid the required fees or associated costs shall immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.

# LIMITATION ON LIABILITY

## RCW 4.24.545

- ▣ Local governments, their subdivisions and employees, the department of corrections and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving offenders who are placed on electronic monitoring or who are participating in the 24/7 sobriety program, unless it is shown that an employee acted with gross negligence or bad faith.

# TWICE A DAY BREATH TEST (2XPBT)



The Alco-Sensor FST

- ❑ Certified in WA
- ❑ Offers rapid and accurate testing.
- ❑ Extremely durable instrument.
- ❑ Designed to do 150 tests per hour.

# SCRAM – CONTINUOUS ALCOHOL MONITORING



SCRAM Continuous Alcohol Monitoring (CAM). SCRAM CAM, worn 24/7, automatically samples a client's perspiration, every 30 minutes, to measure for alcohol consumption. No missed tests. No circumventing a testing schedule.

# SCRAM REMOTE BREATHALYZER



A handheld, wireless, portable breath alcohol device with automated facial recognition and GPS with every single test.

# In-Home Testing



The SMART START IN-HOM unit is an alcohol specific fuel cell based device which is the same price as an interlock device. It is an alternative for the offender who does not have a car yet still needs some form of alcohol monitoring. The IN-HOM alcohol monitor is a device equipped with a camera allowing for positive photo identification.

# SOBERLINK - MOBILE BREATHALYZER

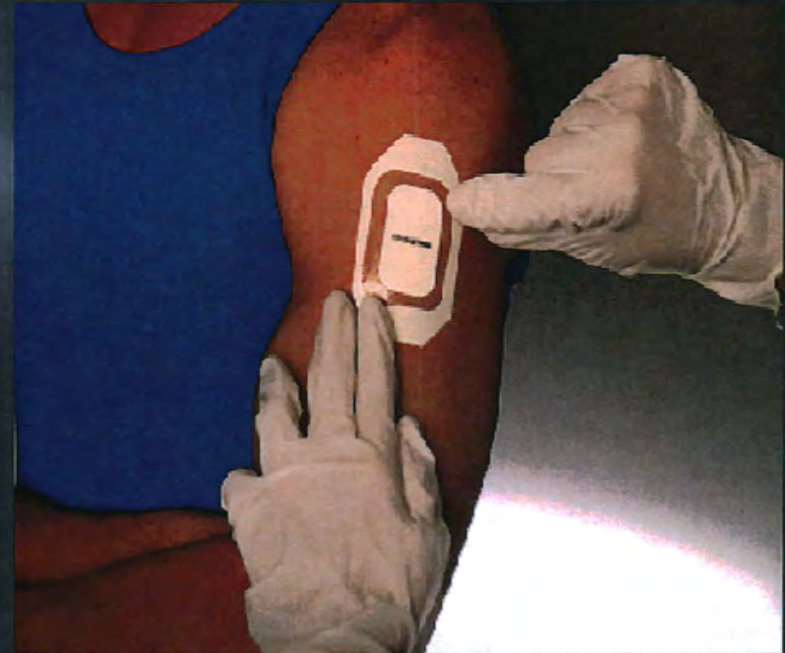


SOBERLINK SL2 is a rugged, one-piece, mobile alcohol monitoring device that measures Breath Alcohol Content (BrAC) by collecting deep lung breath samples. The SL2 incorporates Adaptive Facial Recognition, evidentiary-grade fuel cell technology and multiple acquisition technologies to ensure the client is accurately identified and tested. Results of each test are promptly reported to the central monitoring computer system via a cellular connection. Each test report includes a high resolution client photo, BrAC reading, GPS location and time and date stamp to ensure accuracy.

# PharmChek Drug Patch

USES SWEAT AS THE  
SPECIMAN SOURCE

Provides an alternative to urine collection. The sweat patch is worn on the skin for up to 10 days.





## WEB-BASED SOFTWARE AND REPORTING

- ❑ INTOXI-TRACK 24/7 SOBRIETY PROGRAM DATA MANAGEMENT SYSTEM
- ❑ ON-LINE FAILURE NOTIFICATION SYSTEM AND PARTICIPANT COMPLIANCE TRACKING FOR ALL SITES
- ❑ FINANCIAL TRACKING FOR PARTICIPANTS AND AUDITING PURPOSES
- ❑ COMMUNICATION OF TESTING RESULTS TO ALL PARTIES AND AGENCIES
- ❑ ALL FEES ARE PAID BY THE PARTICIPANT AND NO SOFTWARE COSTS TO THE AGENCY
- ❑ ALLOWS PARTICIPANTS TO TEST AT MULTIPLE SITES

# FEES

- ▣ \$30.00 Participant enrollment fee.
- ▣ \$2.00 per PBT for twice a day testing. Monthly cost approximately \$120.00
- ▣ \$9.00 per day for a remote breath testing device. Monthly cost approximately \$270.00
- ▣ \$12.00 per day for a transdermal device. Monthly cost approximately \$360.00
- ▣ \$10.00 per UA test plus laboratory confirmatory costs on positives.
- ▣ \$50.00 per drug patch.
- ▣ Duration and frequency of drug testing is set by the Judge.

# WHAT HAPPENS WHEN A COUNTY OR JURISDICTION ADOPTS 24/7?

- ▣ REDUCTION IN DUI RECIDIVISM
- ▣ REDUCTION IN DOMESTIC VIOLENCE
- ▣ REDUCTION IN ALCOHOL RELATED CRASHES
- ▣ REDUCTION IN PUBLIC HEALTH HARMS FROM ALCOHOL AND DRUG MISUSE
- ▣ REDUCTION IN JAIL/PRISON POPULATIONS (LESS TIME IN JAIL)
- ▣ MARKED DIFFERENCE IN PROBATION AND PAROLE STRATEGIES
- ▣ ENHANCED PROSPECTS FOR TREATMENT SUCCESSES
- ▣ TESTING SUPPORT FOR DUI / DRUG COURTS
- ▣ CRIMINAL JUSTICE PRO-ACTIVE OPPORTUNITY AND COST SAVINGS

## RAND Study Shows 24/7 Sobriety Programs Work

- ▣ In November of 2012, RAND released results of a three-year, peer-reviewed study on South Dakota's 24/7 Program.
- ▣ <http://www.youtube.com/watch?v=vmovD4DAeA8>

# 24/7 CONTACT INFORMATION

SD Presiding Judge Larry Long: [larry.long@ujs.state.sd.us](mailto:larry.long@ujs.state.sd.us)  
Judge Jeff Davis ([Jeff.Davis@ujs.state.sd.us](mailto:Jeff.Davis@ujs.state.sd.us)) 605-394-2571  
SD Mark Vargo ([vargo@pennco.org](mailto:vargo@pennco.org)) 605-394-2191  
SD Supreme Court Justice Lori Wilbur: [lori.wilbur@ujs.state.sd.us](mailto:lori.wilbur@ujs.state.sd.us)  
SD Supreme Court Chief Justice David Gilbertson: [david.gilbertson@ujs.state.sd.us](mailto:david.gilbertson@ujs.state.sd.us)  
SD Attorney General Marty Jackley: [marty.jackley@state.sd.us](mailto:marty.jackley@state.sd.us)  
ND Attorney General Wayne Stenehjem: [ndag@nd.gov](mailto:ndag@nd.gov)  
MT Attorney General Tim Fox: [contacdoj@mt.gov](mailto:contacdoj@mt.gov)  
SD Sheriff Mike Leidholt (NSA President Elect): [mike.leidholt@co.hughes.sd.us](mailto:mike.leidholt@co.hughes.sd.us)  
SD Sheriff Kevin Thom: [Kevin.thom@co.pennington.sd.us](mailto:Kevin.thom@co.pennington.sd.us)  
MT Undersheriff Kevin Evans: [kevans@co.yellowstone.mt.gov](mailto:kevans@co.yellowstone.mt.gov)  
MT Sheriff Leo Dutton: [ldutton@co.lewis-clark.mt.us](mailto:ldutton@co.lewis-clark.mt.us)  
WY Office of the Governor Mike Reed Govs Impaired Driving Counsel: [mike.reed@wyo.gov](mailto:mike.reed@wyo.gov)  
SD 24/7 Director Tessia Johnston: [Tessia.johnston@co.pennington.sd.us](mailto:Tessia.johnston@co.pennington.sd.us)  
SD 24/7 Director Bart Sweebe: [BSweebe@brookingscountysd.gov](mailto:BSweebe@brookingscountysd.gov)  
SD 24/7 Director Sheriff Toby Wishard: [twishard@codington.org](mailto:twishard@codington.org)  
MO Buchanan County Prosecutor Dwight Scroggins: [dscroggins@pa.co.buchanan.mo.us](mailto:dscroggins@pa.co.buchanan.mo.us)  
SD Sioux Falls State's Attorney Aaron McGowan: [states.attorneys@minnehaha-county.org](mailto:states.attorneys@minnehaha-county.org)  
RAND Corp Dr. Beau Kilmer: [kilmer@rand.org](mailto:kilmer@rand.org)  
SD Corrections Parole Services Kerri Wagner: [kerri.wagner@state.sd.us](mailto:kerri.wagner@state.sd.us)  
SD Probations Services Supervisor Judd Thompson: [judd.thompson@ujs.state.sd.us](mailto:judd.thompson@ujs.state.sd.us)  
SD Pennington County Public Defender's Office Paula Pederson: (605) 394-2181  
WA 24/7 State Coordinator Bruce Bjork: [bbjork@waspc.org](mailto:bbjork@waspc.org) 360-338-1398

VISIT THE INTOXIMETER 24/7  
WEBSITE

Intoximeters, Inc.

St. Louis, Missouri 63146

[www.24x7sober.com](http://www.24x7sober.com)

# WA 24/7 SOBRIETY PROGRAM CONTACT INFORMATION

Bruce Bjork, 24/7 Sobriety Program Manager  
Washington Sheriffs and Police Chiefs  
3060 Willamette Drive NE  
Lacey, Washington 98516  
Office 360/486-2401  
Cell 360/338-1398  
[bbjork@waspc.org](mailto:bbjork@waspc.org)

WASPC 24/7 Website

<https://www.waspc.org/stage.dll/S/>



# **24/7 Sobriety Program Overview**

**An Evidence Based Abstinence Program**

Laura McLeod, June 19, 2013

## More than just a program

- A commitment to working with chronic DUI defenders and other substance abusers toward changing their behavior and preventing additional substance abuse related arrests.



# Why 24/7 Sobriety Programs?

24/7 Sobriety Programs are a promising strategy to:

- Enhance public safety and highway safety
- Reduce recidivism for crimes with a nexus to drugs or alcohol misuse
  - DUID/DWI
  - Domestic Violence
  - Child Abuse and Neglect
- The program can be self-sustaining if offender-pay model is implemented
- MAP-21 provides funding for “costs associated with 24/7 Sobriety Programs”



## The Problem & Costs to Society

- In a recent study — the U.S. Dept. of Justice Report on Alcohol and Crime — identified alcohol abuse as a factor in 40% of violent crimes committed in the U.S. Add in drug-abuse and the numbers grow larger yet.
- A large percent of U.S. inmates have an admitted drug or alcohol dependency. More than four in ten offenders nationwide return to state prison within three years of their release, despite a massive increase in state spending on prisons, according to a Pew report.
- Less quantifiable, but even more serious, are the human costs of this problem:
  - loss of life and limb,
  - loss and bereavement of loved ones,
  - medical and psychiatric treatment,
  - the scarred life that results for an individual who has killed or injured others, and
  - the loss of potential realized by individuals who have ongoing alcohol or substance-abuse problems.



# History & Background

- 24x7 Sobriety Program is a growing national trend – in which alcohol and other drug offenders are monitored by various means to achieve extended sobriety.
- Desire was that this program would have a real impact on not just the offenders, but their families and employers as well.
- An evidence-based program designed to maintain sobriety for offenders of crimes that have a nexus to drug or alcohol use.
- Program policy based on abstinence, continued monitoring, immediate consequences for violations, personal responsibility and accountability, data base collection; communication; monitoring, poly-substance use testing, change of behavior/choices and immediate sanctions.
- The core premise of the Program is that in order to affect behavioral change an **immediate consequence** should be imposed as soon after a violation has occurred. (It is believed that as the span of time between a non-compliant event and the sanction increases, the long term effect on behavioral change diminishes.)



## History & Background (continued)

- A law enforcement concept that began as a pilot program in [South Dakota](#) in 2005
- That sets a standard of no use of alcohol and no use of illegal drugs as an ordered condition for:
  - bond,
  - post-sentence probation,
  - work permits,
  - parole,
  - corrections, and
  - other special conditions
- While on this program, participants remain in society, conducting their daily lives and fulfilling their responsibilities, **as long as they comply with and pass rigorous ongoing sobriety testing.**



# What are the 24/7 Sobriety Program's Core Components?

Central to 24/7 Sobriety Programs include the ability to:

- provide immediate and certain consequences for the participant's actions
- monitor the participants with a frequency where they believe that it is likely that use will be detected
- provide a testing methodology that produces fast, accurate and defensible results
- collect and report compliance data to stakeholders in a timely manner
- require participant investment in the process



# 24/7 Sobriety Programs and Traffic Safety

*To reduce impaired driving and the harms associated with alcohol and drug misuse by:*

- 1 Mandating abstinence from alcohol and illicit drugs
- 2 Enforcing abstinence requirements of the court
- 3 Addressing the root cause of the crime – alcohol and drug misuse
- 4 Tackling drugged driving and poly-drug use issues
- 5 Addressing the likelihood offenders will drive impaired during periods of license suspension/revocation
- 6 Creating an offender-funded, self-sustaining program that can reduce criminal justice resources used to deal with high-risk alcohol offenders



# 24/7 Sobriety Program Rules

- 1** No possession or consumption of alcohol or illicit drugs
- 2** Must take supervised breath tests twice daily or
- 3** Be tested by a Continuous Alcohol Monitoring device or
- 4** May be required to submit to random drug tests (urinalysis or drug patch)
- 5** Participant pays for their participation in the program
- 6** Immediate sanctions - If you skip or fail, you go to jail
- 7** Does NOT replace treatment requirements



# How is 24/7 Used?

## 24/7 targets high-risk offenders:

- Repeat DWI/DUI offenders
- High BAC offenders
- Drug-impaired driving offenders
- Offenders who's crimes have a nexus to drug or alcohol use
- Offenders assessed as poly-drug users

## Criminal justice system can use 24/7 as:

- A condition of bond
- A condition of parole
- A condition of probation

## 24/7 can be used to reinforce other sanctions:

- As an adjunct to interlock sanctions to vet offenders and motivate compliance
- For offenders who are unable to install interlocks
- For offenders who must serve license suspension/revocation periods before interlock installation or license reinstatement



### Origin of 24/7 Sobriety Programs

- Started in South Dakota in early 1980s in Bennett County as a response to jail overcrowding
- Aimed at repeat DWI/DUI offenders and others convicted of alcohol-related crimes (domestic violence, child abuse/neglect, etc.)
- Used as a condition of bond, but **DID NOT** replace treatment requirements
- Motto: “If you skip or fail, you go to jail”



*“The 24x7 program works like an electric fence works. The punishment is swift, 100% certain, but not severe. And that seems to be why the program is effective. I also think there is a therapeutic effect for offenders involved in a twice-daily program with a community of participants like themselves. They don't feel singled out and they have others involved daily in addressing their addiction problem. It's been gratifying to me to hear from family members of offenders who see a real difference in their son or daughter or spouse as they become sober again and are able to sustain it over time. I believe that the 24x7 sobriety program, which allows us to gather and analyze data related to these repeat offenders, will help us make real strides in the future in balancing punitive and treatment options that can help end the cycle and move people to permanent sobriety.”*

*- Judge Larry Long*



# Expansion of 24/7 Sobriety Programs

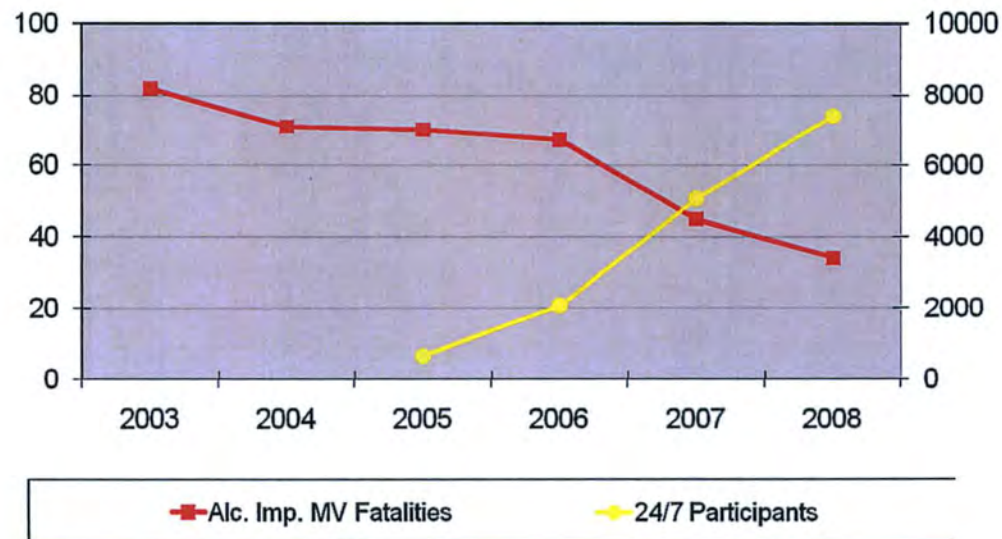
- Expanded testing methodologies to include:
  - Twice daily in-person testing (morning and evening)
  - Transdermal Continuous Alcohol Monitoring
  - Scheduled or Random urinalysis or drug patch tests
  
- Expanded state adoption includes:
  - South Dakota: In 2005 a five-county 24/7 Sobriety Program pilot was conducted, and by 2012 it was expanded to 60 of 66 counties
  - North Dakota: In January 2008 the 24/7 Sobriety Program was piloted, and statewide implementation was complete by August 2010
  - Montana: In March 2010 a 24/7 Sobriety Program pilot was conducted, which has expanded to 22 of 56 counties



# Results from South Dakota

With the 24/7 Sobriety Project and other state initiatives, South Dakota has completely turned this around and:

- From 2006 to 2007, alcohol-related traffic deaths declined by 33%, the highest decrease in the nation (NHTSA, 2008)
- Outperformed every other state in its percentage reduction in DUI fatalities
- Achieved stellar compliance rates among program participants



# 24/7 Sobriety

## Benefits of 24/7 Sobriety Programs

- 1 Enhances public safety by reducing recidivism rates
- 2 Addresses jail overcrowding
- 3 Provides a continuum of testing options
- 4 Is self sustaining (when an offender-pay model is used)



# South Dakota's 24/7 Program Statistics\*

## PBTx2 (2/1/05-6/1/13):

- 29,696 Participants
- 6.06M Tests
- 99.2% Pass Rate

## SCRAM (11/10/06-6/1/13):

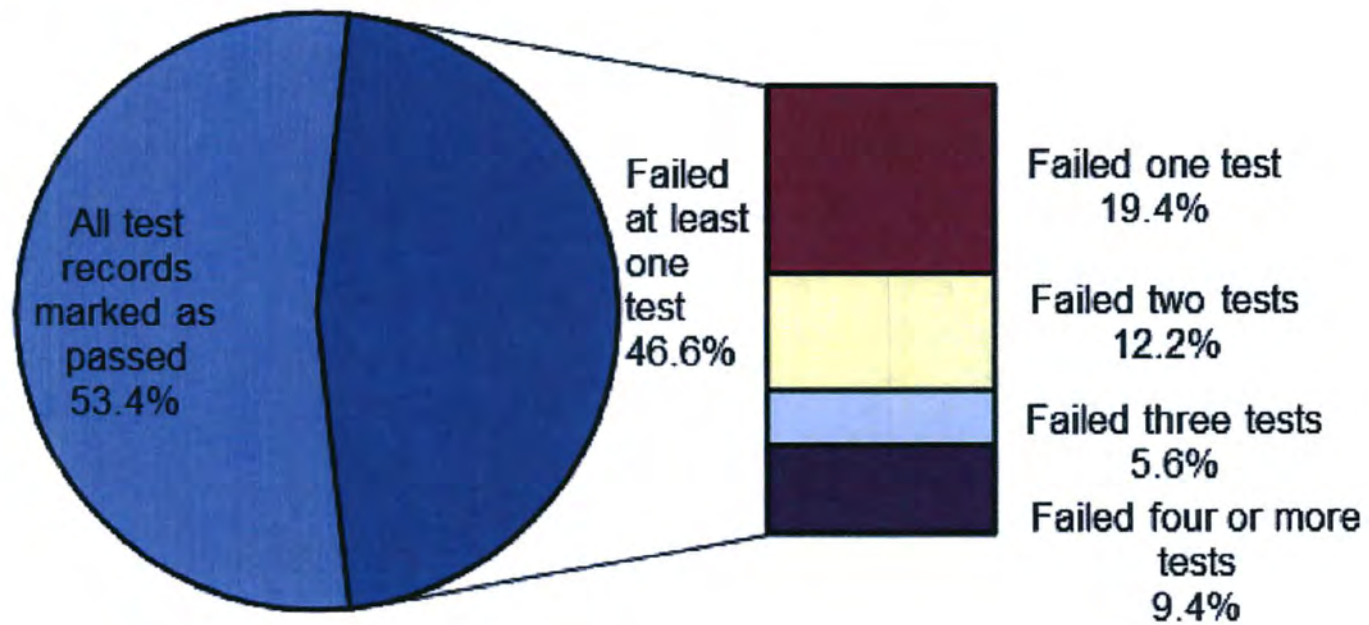
- 5,427 Participants
- 43.9M Tests (*99.7% of tests confirmed offender compliance*)
- 826K Monitored Days
- 27.4M Sober Days
- 152 Average Days on SCRAM



\*Listed on South Dakota Office of the Attorney General 24/7 Sobriety Program site  
<http://apps.sd.gov/atg/dui247/247stats.htm>

# South Dakota's 24/7 Program Statistics\*

**Figure 9: Summary of Number of Participants who have Passed and Failed At Least One Test (n = 4,680 participants)**



# Reduced Recidivism Rates – South Dakota

## Mountain Plains Evaluation LLC

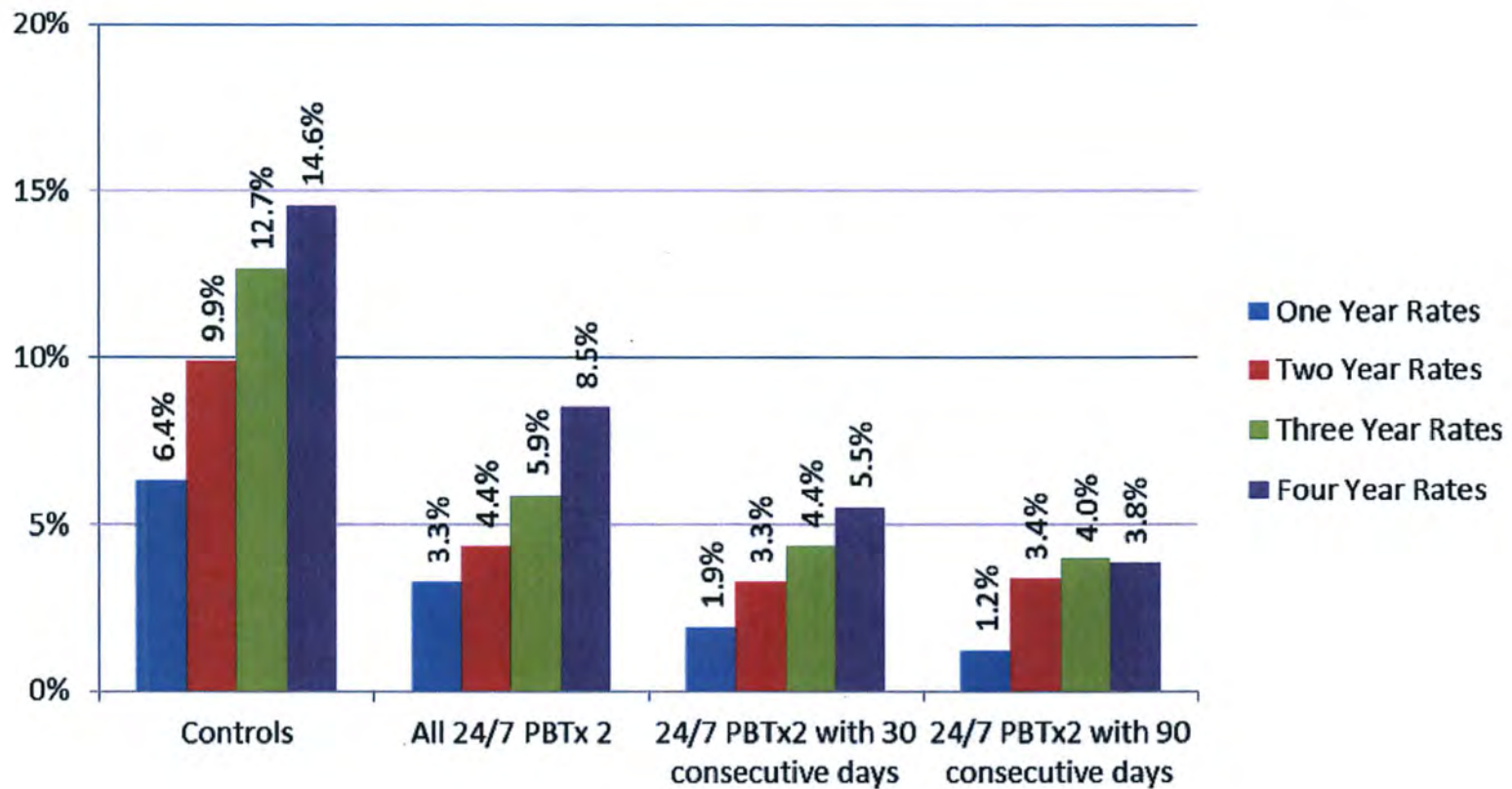
- NHTSA funded Mountain Plains to evaluate South Dakota's 24/7 Sobriety Program.
- In 2010, the *South Dakota 24/7 Sobriety Program Evaluation Findings Report* was published and found:

Offense Base Level	UJS Control Group	24/7 Sobriety Program	% Reduction in Recidivism
2 <sup>nd</sup> DUI	13.7%	3.6%	74%
3 <sup>rd</sup> DUI	15.3%	8.6%	44%
4 <sup>th</sup> DUI	15.5%	8.6%	31%



# Reduced Recidivism Rates – South Dakota

Figure 11: 24/7 Participants Compared to Controls – DUI 2nd to next DUI Offense



# Positive Community Outcomes

## The RAND Corporation

- NIAAA funded The RAND Corp. to conduct a three-phase study of South Dakota's 24/7 Sobriety Program
- **Phase I: Evaluate community outcomes (completed)**
  - Findings published in November 2012 issue of American Journal of Public Health
  - Frequent alcohol testing with swift, certain, and modest sanctions can reduce problem drinking and improve public health outcomes.
    - County-wide Repeat DUI offenses reduced by 12%
    - County-wide Domestic violence offenses reduced by 9%
    - County-wide Traffic crashes involving males ages 18-41 reduced by 4%
- **Phase II: Evaluate 24/7 with individual-level data (in process)**
- **Phase III: Estimate the benefit/cost ratio for 24/7 (in process)**



# Conclusions

In community supervision settings, frequent alcohol testing with swift, certain, and modest sanctions for violations **can** reduce problem drinking and improve public health outcomes.





# Florida

- Developers of the 24/7 Sobriety Program have met with local and state officials in various areas of the state, including the DHSMV.
- 2 Licensed DUI Programs have agreed to pilot the program in the 4<sup>th</sup> and 14<sup>th</sup> Judicial Circuits.
- The 2<sup>nd</sup> Judicial Circuit was identified as a potential 3<sup>rd</sup> program for pilot after meetings with Leon County local officials.



## Program Considerations

- 1 Funding sources, including MAP-21
- 2 Key highway safety and criminal justice stakeholder involvement
- 3 Legislative approach



# 24/7 Sobriety Program Specifications

## Program Needs

- Location to test offenders
- Staff to test offenders
- Facility with a holding cell
- PBTs and mouthpieces for in-person testing
- SCRAM devices for offenders unable to test in person
- Internet connectivity to track offenders, view test results & process payments



# 24/7 Sobriety Program Specifications

## Program Costs

- Testing methodologies:
    - PBTx2
    - SCRAM
    - Urinalysis
    - Drug Patch
  - Monitoring software:
    - No start-up cost, but per test licensing fees
- ❖ *Self-sustaining, offender-pay model*



# 24/7 Sobriety Program Specifications

## Average Cost to Offenders

- PBTx2 in-person testing: \$2/test or \$4/day
- SCRAM: \$6-12/day, depending on delivery model
- Urinalysis: \$5-10/initial test plus lab costs, if positive requires confirmatory test
- Drug Patch: \$40/ includes patch and lab costs



# Comparison of Alcohol Testing Methodologies

## PBTx2 Protocol:

- Most commonly used testing methodology
- Evidential Grade Test Results
- Mandated participant commitment
- Test results are immediate
- **Sanctions are immediate**
- Requires program staffing
- Participant-pay model offsets costs
- Data exists that supports this methodology having a significant impact on recidivism.

## Transdermal CAM Protocol:

- 48 tests every 24-hour period
- Monitored participant (no testing action required by offender)
- Test results are provided next day
- **Sanctions are timely**
- Requires minimal program staffing
- Participant-pay model offsets costs



# Twice-a-Day Breath Testing

## Intoximeters, Inc.

- Market leader & provider of industry-leading technology in evidential breath-alcohol testing since 1945
- Demonstrated field experience and proven technologies to meet the demands of 24/7 breath testing
- IntoxiTrack sobriety management software solution
  - Flexible, cost effective, and secure web-based participant monitoring and reporting tool



# Continuous Alcohol Monitoring

## Alcohol Monitoring Systems, Inc. (AMS)

- AMS is the world's largest provider of Continuous Alcohol Monitoring (CAM)
- SCRAM transdermally monitors for the presence of alcohol every 30 minutes
- SCRAM is scientifically-tested and court validated
- 99.3% of SCRAM monitored days are Sober Days (nationwide)
- Lifetime SCRAM use & results:
  - 290K+ people monitored
  - 27M+ monitored days
  - 1.3B+ alcohol tests performed



## 24/7 Sobriety Program Contact Information

- **South Dakota 24/7 Program Coordinator**

Art Mabry

605-202-0387, [Art.Mabry@state.sd.us](mailto:Art.Mabry@state.sd.us)

[www.atg.sd.gov](http://www.atg.sd.gov)

- **North Dakota 24/7 Program Coordinator**

Tim Meyer

701-220-7029, [tmeyer@nd.gov](mailto:tmeyer@nd.gov)

[www.nd.ag.gov](http://www.nd.ag.gov)

- **Montana 24/7 Program Contact**

Major Tom Butler

406-444-3588, [tbulter@mt.gov](mailto:tbulter@mt.gov)

<https://doj.mt.gov/247-sobriety-program/>



# Experienced 24/7 Program Vendors

- **Alcohol Monitoring Systems, Inc. (SCRAM)**  
Dan Altvater, 206-402-4397, [daltvater@alcoholmonitoring.com](mailto:daltvater@alcoholmonitoring.com)  
Mike Day, 303-785-7835, [mday@alcoholmonitoring.com](mailto:mday@alcoholmonitoring.com)
- **Intoximeters, Inc. (Alco-Sensors & Intoxitrack Data Management Systems)**  
Rankine Forrester, 800-451-8639, [frank@intox.com](mailto:frank@intox.com)
- Bill Mickelson Consulting (planning, implementation & deployment)
- PharmChem, Inc. (drug patch)
- Redwood Toxicology Laboratory (drug testing kits & lab services)



## Links to More Info

For more information about the 24x7 Sobriety System, go to

<http://www.24x7sober.com/>

Read more about the Rand Study at

<http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2012.300989>

**For more information about YOUR STATES program pilot plans, contact the  
YOUR CONTACT INFORMATION HERE**





# Do You Have Any Questions?

[Name]  
[Phone Number]  
[Email Address]



ADN.com

# adn.com Anchorage Daily News

## State of Intoxication: Daily Breathalyzer to be used statewide

BY KYLE HOPKINS

khopkins@adn.com January 4, 2014

.□

Every morning and every night, the toaster-sized Breathalyzer in Larry Berg's Sand Lake bedroom shrieks for attention.

"WEEEEEE-OH! WEEEEEE-OH! WEEEEEE-OH!"

A former UPS delivery driver who estimates he has driven drunk 1,000 times in his lifetime, Berg is awaiting trial on his fourth drunken-driving charge. When the siren sounds, he has just minutes to blow into a plastic tube to prove he hasn't been drinking.

If he ignores the test, or the gadget detects liquor on his breath, it's back to jail for the 53-year-old Anchorage grandfather.

Testing problem drinkers at least twice a day for alcohol while they are free on bail is a new and growing approach to fighting booze-fueled crime in the United States. Known as "24/7 Sobriety," it was pioneered in other hard-drinking states like Montana and the Dakotas and is now poised for widespread use in Alaska.

Some people, like Berg, will pay hundreds of dollars a month to install alcohol sensors in their homes. The state expects most will visit central testing sites every 12 hours, paying \$1 to \$2 per test.

Beginning this month:•

The state Health Department **plans to spend \$300,000** on software

and testing services to launch daily alcohol testing for an estimated 300 people in Anchorage and 100 or more in Fairbanks.

- Sen. John Coghill, R-Fairbanks, will propose a law to allow people convicted of a third DUI to avoid losing their driver's license for life if they succeed in a 24/7 Sobriety program. Participants might be able to get a conditional driver's license while on the program to drive to work or an alcohol testing site.

- In Fairbanks, where some judges have long advocated use of the daily Breathalyzer testing program, the area court system on Wednesday launched a \$40,000 test program for pre-trial defendants and others.

"This may be one way of holding people accountable and still being productive in their life," Coghill said.

The South Dakota Justice Department found that drivers accused of their second DUI were half as likely to get another drunken-driving charge within three years if they participated in daily testing.

Similar small-scale programs have been tested in Alaska over the past two years, and more than 50 Anchorage residents are already blowing into a Breathalyzer every day to stay out of jail while on bail. For Berg, daily alcohol testing has allowed him to earn money installing commercial windows while waiting for his court case. Instead of sleeping in a cell, he rides the bus from work to a tidy, two-bedroom home draped in Christmas lights.

When he stays away from booze, life is simple. "I'm a good driver," he said, eyes wet. "I'm just a bad drinker."

Berg sat at his kitchen table Tuesday in a pair of fleece salmon-pattern pajamas, the street still dark outside when the Breathalyzer alarm sounded at 6:33 a.m. Berg padded across the house, his fiancée asleep in another room.

The simple black sensor sits on his dresser between a snowmachine

rating trophy and flat-screen TV. As he blew into the plastic tube the black device flashed, snapping a grainy picture of Berg's face, his identity verified by facial recognition software. He will repeat the routine when he gets home from work and every hour until he goes to bed.

### □□ **"When he's sober he's fine"**

Searching for ways to keep people convicted of drunken driving from repeating the crime when released from jail, South Dakota's attorney general launched the 24/7 Sobriety program, the first in the nation, in 2005.

The state's jail populations shrank in most counties in following years, and the statewide rate for alcohol-related traffic deaths plunged faster than the national average, the attorney general's office reported. Concurrent changes to DUI laws and extra police patrols also fueled the improvement, according to the state.

The program eventually expanded to include people charged with other alcohol and drug-related crimes, including domestic violence and child neglect.

More than 22 counties in Montana now use the daily alcohol tests. The North Dakota Legislature expanded that state's 24/7 program last year to make the testing mandatory for people convicted of their second DUI while allowing participants to obtain a temporary driver's license as long as they stay sober under the program.

A draft version of the bill Coghill plans to introduce in Alaska this month included the same ideas. Coghill said details of the proposal may change as hearings begin in Juneau.

Anchorage tested the 24/7 program in 2011 and 2012, at first focusing on people who hurt family members after drinking. "We kept hearing from victims, 'When he's sober he's fine,'" said Assistant Municipal Prosecutor Cynthia Franklin.

Prosecutors found that parents ordered to stay sober as a condition of keeping custody of their kids fared the best. This year, support for the program is growing in Juneau. Democrats and Republicans alike are pushing for the daily testing, Coghill said.

Intoximeters, a company that makes 24/7 monitoring software and testing equipment, hired top Alaska lobbyist Wendy Chamberlain for \$30,000 in February, according to the Alaska Public Offices Commission.

The state is finalizing a contract to buy the same Intoximeters monitoring software used in South Dakota to target daily alcohol testing for probationers, parolees, parents of neglected children and others accused of liquor-related crimes.

The program will begin in Anchorage and the Fairbanks North Star Borough but may expand, according to the Health Department. It is expected to eventually pay for itself as clients cover the cost of their own Breathalyzer tests, said Tony Piper, program manager for the state Alcohol Safety Action Program.

The Corrections Department is considering the testing for people who are out of prison on probation or parole but violated the conditions of their release by using alcohol or drugs.

Alaska's prison population has grown at more than eight times the rate of the general state population since 1971, with the cost of housing an inmate now topping \$147 per day.

"We want to look at other sanctions. Other ways that we can help people stay successful," said Deputy Commissioner Ron Taylor.

Alaska Pretrial Services plans to open three testing sites in Anchorage by the end of the year, with 200 to 300 people participating in the program by April.

Still, daily testing alone isn't enough. One key to the program's success is providing swift punishment if someone breaks the rules

and drinks, said Intoximeters chief executive Rankine Forrester.

Berg broke his pledge to stay away from booze late one night in September, drinking box wine he found among his salmon fishing gear. The next morning he missed a Breathalyzer test and Alaska Pretrial Services came to his house to get him.

He spent the next six weeks in jail for drinking two glasses of wine, he said.

While Berg pays to have an alcohol sensor installed in his home, other participants visit testing sites twice a day. That requirement raises questions about the program's usefulness in far-flung villages where there might be no police to arrest people who violate court orders to stay sober.

Alaska Pretrial Services state program director Dennis Johnson said he has talked with the Tanana Chiefs Conference, the tribal coalition of 42 Interior villages, about providing the testing in some villages with the help of local police or VPSOs.

### **□□No hiding**

Copies of the autobiography of Dog the Bounty Hunter -- "You Can Run But You Can't Hide" -- line the shelves in Johnson's apartment-sized office in Muldoon. Mugshots paper the walls.

The company monitors people released on bail wearing ankle monitors to track their whereabouts. Increasingly, they provide daily alcohol-testing including 58 people now awaiting trial in Anchorage and three in Fairbanks.

Among them: Airman Lane Douglas Wyatt, 23, accused of running a red light in East Anchorage early one morning in June and slamming into a car driven by 20-year-old Citari Townes-Sweatt. She was the first of five people killed in drunken-driving accidents in two months, Anchorage police said.

"He has to test six to nine times a day," Johnson said. Like others accused of serious felony crimes, Wyatt wears an ankle monitor.

On a screen at his desk, Johnson pulled up a map of the city. A purple dot on Joint Base Elmendorf-Richardson, showed the airman's location in a building off Arctic Warrior Drive. The satellite tracking is accurate within six feet, Johnson said, meaning the company can tell which room in a house someone is in, whether he is moving or standing still, and what floor he is on.

Another of the dots on Johnson's digital city map is Larry Berg. During the day, the computer shows him at Replacement Glass Co. on Arctic Boulevard, or riding with a co-worker to various installation jobs across the city.

Berg took a \$6 an hour pay cut when he got his latest DUI, He's not worth as much to the company if he can't drive himself to jobs, he said.

One aim of the 24/7 program is to stop drunken drivers from relapsing as soon as they get out of jail.

Berg hasn't had a valid license for years but that didn't stop him driving. The last time troopers caught him, in June, he'd left the family cabin for a pack of Marlboro's.

"You actually don't really think when you jump in (the car.) 'You're fine. You only have a couple of blocks to go,' " Berg said

Twice divorced, Berg said he's attending Alcoholics Anonymous for the first time and considers himself lucky he never crashed his car or killed anyone when he was drinking.

For now, Berg hops two buses on his way to work. On the way home he walks past the American Legion hall. Chilkoot Charlie's. A liquor store. Places he used to drink.

The bars don't haunt him, he insists. "I'm not even going to pretend I

could pick up a beer or a glass of wine. ... The last time I had a drink, Mr. Johnson came and took me to jail."

But with a court date later this month in Palmer, the thought of returning to prison is never far from his mind. Under Alaska sentencing laws, among the toughest in the nation for drunken driving, he could get a \$10,000 fine plus two years behind bars.

"Most people in there talk about how they can't wait to get out to go get hammered," he said.

Photographer Marc Lester contributed to this report. Twitter updates: [twitter.com/adn\\_kylehopkins](https://twitter.com/adn_kylehopkins). Call Kyle Hopkins at 257-4334 or email him at [khopkins@adn.com](mailto:khopkins@adn.com).

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