SENATE FLOOR VERSION
February 21, 2013

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 143 By: Barrington of the Senate

and

Armes of the House

[alcohol and dangerous drug abuse - Oklahoma 24/7 Sobriety and Drug Monitoring Program Act - testing locations and times - certain fees - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-213 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma 24/7 Sobriety and Drug Monitoring Program Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-213.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma 24/7 Sobriety and Drug Monitoring Program Act:

1. "Core components" means those elements of a 24/7 program that analysis demonstrates are most likely to account for positive program outcomes;

2. "Immediate sanction" means sanctions which are applied within minutes of a noncompliant test event;

3. "Jurisdiction" means the county or municipality which chooses to participate in a 24/7 program;

4. "Law enforcement agency" means the law enforcement agency charged with enforcement of a 24/7 program;

5. "24/7 sobriety and drug monitoring program" or "24/7 program" means the 24/7 sobriety and drug monitoring program created in the Oklahoma 24/7 Sobriety and Drug Monitoring Program Act which authorizes a court or agency, as a condition of bond, sentence, probation, parole, or work permit, to:

a. require an individual who has been charged, pled guilty or been convicted of a crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime, including but not limited to, driving under the influence of alcohol or dangerous drugs, to abstain from alcohol or dangerous drugs for a period of time, and

b. require the individual to be subject to testing to determine the presence of alcohol or dangerous drugs as follows:

(1) at least twice a day at a central location where immediate sanctions can be applied,

(2) where twice a day testing is impractical, by continuous or transdermal alcohol monitoring by means of an electronic monitoring device where timely sanctions can be applied, or

(3) by an alternate method consistent with the provisions of the Oklahoma 24/7 Sobriety and Drug Monitoring Program Act.

6. "Testing" means a procedure for determining the presence and level of alcohol or a dangerous drug, in an individual's breath or body fluid, including blood, urine, saliva or perspiration, and includes any combination of the use of breath testing, drug patch testing, urinalysis testing, saliva testing or continuous or transdermal alcohol monitoring; and

7. "Timely sanction" means a sanction that is applied within hours or days after a noncompliant test event, provided, the period of time shall be as short as possible and shall not exceed fourteen (14) days.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-213.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of the Oklahoma 24/7 Sobriety and Drug Monitoring Program Act, core components of the statewide 24/7

program shall include use of a primary testing methodology for the presence of alcohol or dangerous drugs that best facilitates the ability to apply immediate sanctions for noncompliance at an affordable cost. In cases of economic hardship or when a program participant is rewarded with less stringent testing requirements, testing methodologies with timely sanctions for noncompliance may be utilized.

B. The statewide 24/7 program must be supported by evidence of effectiveness and satisfy at least two of the following categories:

1. The program is included in the federal registry of evidence-based programs and practices;

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

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

C. If a jurisdiction participates in the 24/7 program:

1. The law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to the provisions of the Oklahoma 24/7 Sobriety and Drug Monitoring Program Act, except that the law enforcement agency's designee may not determine whether to participate in the 24/7 sobriety and drug monitoring program, and

2. The law enforcement agency shall establish the testing locations and times for the jurisdiction, but must have at least one testing location and two daily testing times approximately twelve (12) hours apart.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-213.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any court, county attorney, or city attorney in a participating jurisdiction may utilize the 24/7 program.

B. 1. Any entity utilizing the 24/7 program may stay any sanctions imposed against an offender while the offender is in compliance with the 24/7 program.

2. If an individual convicted of a second or subsequent offense of driving under the influence has been required to participate in the 24/7 program, the court may, upon the individual's successful completion of a court-approved chemical dependency treatment program and proof of insurance as required by law, notify the Department of Public Safety that as a participant in the sobriety program, the individual is eligible for a restricted probationary driver license.

3. If the individual fails to comply with the requirements of the 24/7 program, the court may notify the Department of the individual's noncompliance and direct the Department to withdraw the individual's probationary driver's license and reinstate the remainder of the suspension period.

C. The court may condition any bond or pretrial release for an individual charged with a second or subsequent violation of driving under the influence or for an individual charged with any crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime upon participation in the 24/7 sobriety and drug monitoring program and payment of the fees required by the court.

D. The court may condition the granting of a suspended execution of sentence, or probation for an individual convicted of a second or subsequent violation of driving under the influence or for an individual convicted for any crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime upon participation in the 24/7 sobriety and drug monitoring program and payment of the fees required by the court.

E. The Pardon and Parole Board, the Department of Corrections or a parole officer may condition parole for a second or subsequent violation of driving under the influence or may condition parole for any crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime upon participation in the 24/7 sobriety and drug monitoring program and payment of the fees required by the court.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-213.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The law enforcement agency of a jurisdiction in which a 24/7 sobriety and drug monitoring program exists shall collect the testing fee required by the rules of the agency and deposit the fees into the local 24/7 program account established pursuant to such rules.

B. The fee must be distributed according to the rules to the proper jurisdiction for use by the law enforcement agency or the designee of the law enforcement agency pursuant to the terms determined by the law enforcement agency in accordance with the provisions of and rules implementing the Oklahoma 24/7 Sobriety and Drug Monitoring Program Act.

C. The law enforcement agency shall:

1. Distribute a portion of the fees to the participating vendors in accordance with the vendor agreements; and

2. Place the remainder of the fee proceeds in the sobriety program account authorized pursuant to the rules for use by the law enforcement agency for the sole purpose of administering the 24/7 sobriety program.

SECTION 6. This act shall become effective November 1, 2013.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
February 21, 2013 - DO PASS AS AMENDED