

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0379

SENATE JUDICIARY ENGROSSED NO. **SB 21** - 01/23/2014

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney
General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the collection and
2 setting of 24/7 sobriety program fees and regarding the monitoring of ignition interlock
3 testing.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 1-11-25 be amended to read as follows:

6 1-11-25. Any fees collected under §§ 1-11-17 to 1-11-25, inclusive, shall be distributed as
7 follows:

8 (1) Any daily user fee collected in the administration of twice a day testing, drug patch
9 testing, or urinalysis testing under the 24/7 sobriety program shall be collected by the
10 sheriff, or an entity designated by the sheriff, and deposited with the county treasurer
11 of the proper county, the proceeds of which shall be applied and used only to defray
12 the recurring costs of the 24/7 sobriety program including maintaining equipment,
13 funding support services and ensuring compliance;

14 (2) Any installation and deactivation fee collected in the administration of electronic



1 alcohol monitoring device testing shall be collected by the sheriff, or an entity
2 designated by the sheriff, and deposited with the county treasurer of the proper
3 county, the proceeds of which shall be applied and used only to defray the recurring
4 costs of the 24/7 sobriety program including maintaining equipment, funding support
5 services, and ensuring compliance;

6 (3) Any daily user fee collected in the administration of electronic alcohol monitoring
7 device testing, arising from a court ordered placement in the 24/7 sobriety program,
8 shall be collected by the sheriff, or an entity designated by the sheriff, and deposited
9 in the state 24/7 sobriety fund created by § 1-11-18. ~~A participant shall pay all~~
10 ~~electronic alcohol monitoring device testing user fees to the clerk of courts in the~~
11 ~~county where the participant is enrolled in the program if the test is ordered by a~~
12 ~~court.~~ If the test is directed by the Board of Pardons and Parole, the Department of
13 Corrections, the Department of Public Safety, or a parole agent, the fees shall be ~~paid~~
14 ~~to the directing entity~~ collected and deposited as provided in the written directive;

15 (4) The Department of Corrections or the Unified Judicial System may collect an
16 installation fee and a deactivation fee in their administration of electronic alcohol
17 monitoring device testing. These fees shall be deposited into the state general fund;

18 (5) Any enrollment and monitoring fee collected in the administration of ignition
19 interlock device testing shall be collected by the sheriff, or an entity designated by
20 the sheriff, and deposited with the county treasurer of the proper county, the proceeds
21 of which shall be applied and used only to defray the recurring costs of the 24/7
22 sobriety program including maintaining equipment, funding support services, and
23 ensuring compliance; and

24 (6) Any participation fee collected in the administration of testing under the 24/7 sobriety

1 program to cover program administration costs incurred by the Office of Attorney
2 General shall be collected by the sheriff, or an entity designated by the sheriff, and
3 deposited in the state 24/7 sobriety fund created by § 1-11-18.

4 Section 2. That § 1-11-26 be amended to read as follows:

5 1-11-26. A participant submitting to twice-a-day testing shall pay a user fee of ~~one dollar~~
6 to not more than three dollars, ~~inclusive~~, for each test.

7 Section 3. That § 1-11-27 be amended to read as follows:

8 1-11-27. A participant submitting to urinalysis testing shall pay a user fee of ~~five dollars to~~
9 not more than ten dollars, ~~inclusive~~, for each test. If further analysis of the sample is required
10 or requested, the participant is responsible for payment of the actual costs incurred by the
11 participating agency for the analysis of the sample.

12 Section 4. That § 1-11-28 be amended to read as follows:

13 1-11-28. A participant submitting to wear a drug patch shall pay a user fee of ~~forty to~~ not
14 more than fifty dollars, ~~inclusive~~, for each drug patch attached.

15 Section 5. That § 1-11-29 be amended to read as follows:

16 1-11-29. A participant submitting to the wearing of the electronic alcohol monitoring device
17 shall pay a user fee of ~~five dollars to~~ not more than ten dollars, ~~inclusive~~, for each day.

18 In addition, the participant shall pay an installation fee and a deactivation fee, each in the
19 amount of ~~thirty to~~ not more than fifty dollars, ~~inclusive~~.

20 The participant is also financially responsible for the actual replacement cost for loss or
21 breakage of the electronic alcohol monitoring device and all associated equipment provided to
22 the participant that is necessary to conduct electronic alcohol monitoring device testing.

23 Section 6. That § 1-11-30 be amended to read as follows:

24 1-11-30. A participant submitting to the installation of an ignition interlock device shall pay

1 all costs and expenses associated with the installation and operation of the ignition interlock
2 device directly to the authorized vendor pursuant to a contract between the vendor and
3 participant.

4 In addition, the participant shall pay an enrollment fee in the amount of ~~thirty to~~ not more
5 than fifty dollars, ~~inclusive~~, at the time of enrollment and monitoring fees in the amount of ~~ten~~
6 ~~to~~ not more than twenty dollars, ~~inclusive~~, at intervals to be set by the attorney general.

7 The participant is also financially responsible for the actual replacement cost for loss or
8 breakage of the ignition interlock device and all associated equipment provided to the
9 participant that is necessary to conduct ignition interlock device testing.

10 Section 7. That § 1-11-32 be amended to read as follows:

11 1-11-32. Each participant in the 24/7 sobriety program shall pay a participation fee of ~~one~~
12 ~~to~~ not more than three dollars, ~~inclusive~~, per day.

13 Section 8. That ARSD 2:06:03:07 be repealed.

14 ~~— 2:06:03:07. Remitting participation fees. A participating agency shall remit to the Attorney~~
15 ~~General on a quarterly basis all participation fees and any electronic monitoring device fees~~
16 ~~collected pursuant to an agency directive.~~

17 Section 9. That ARSD 2:06:03:08 be repealed.

18 ~~— 2:06:03:08. Failure to pay fees. The participating agency may, in addition to any other~~
19 ~~authorized sanction, remove a participant from electronic alcohol monitoring device testing and~~
20 ~~ignition interlock device testing and place the participant on twice-a-day testing if the participant~~
21 ~~fails to pay the required fees and costs for those devices.~~

22 Section 10. That ARSD 2:06:02:02.02 be amended to read as follows:

23 2:06:02:02.02. Periodic ignition interlock inspection. The participant shall bring the motor
24 vehicle with the installed ignition interlock device to the vendor for calibration testing and

1 inspection in accordance with the manufacturer's directions. The participant shall bring the
2 motor vehicle with the installed ignition interlock device and vendor inspection documentation
3 to the participating agency for inspection every ~~60~~ 30 days, and for calibration testing every 120
4 days, or when directed by the participating agency.

5 Section 11. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 All fees collected for deposit in the state 24/7 sobriety fund created by § 1-11-18 shall be
8 remitted on at least a quarterly basis.

9 Section 12. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 A sheriff, entity designated by a sheriff, or a directing entity may, in addition to any other
12 authorized sanction, remove a participant from electronic alcohol monitoring device testing and
13 ignition interlock device testing and place the participant on twice-a-day testing if the participant
14 fails to pay the required fees and costs for those testing devices.