

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 335

Introduced by Hansen, M., 26.

Read first time January 16, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to bail; to amend sections 29-901, 60-480,
- 2 60-498.01, 60-4,115, 60-6,197.05, 60-6,197.06, and 60-6,211.11,
- 3 Revised Statutes Cumulative Supplement, 2018; to adopt the 24/7
- 4 Sobriety Program Act; to authorize a 24/7 sobriety program permit
- 5 for operating a motor vehicle as a condition of bond as prescribed;
- 6 to provide penalties; to harmonize provisions; and to repeal the
- 7 original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the 24/7 Sobriety Program Act.

3 Sec. 2. (1) The Legislature finds and declares that there are many
4 different approaches to assist individuals who struggle with substance
5 abuse. Alternatives to incarceration should be considered in order to
6 reduce the cost to the taxpayers, successfully rehabilitate offenders,
7 ensure public safety, and minimize risk to society. Ignition interlock
8 devices, which are required to be installed for those who are charged
9 with or have been convicted of certain offenses, while effective, may be
10 a financial burden to those who cannot afford the costs of installation
11 or maintenance of such devices. In this state, ignition interlock devices
12 have been proven to be an effective means of preventing drivers from
13 operating motor vehicles while under the influence of alcohol. Other
14 states have implemented 24/7 sobriety programs. States that implement
15 24/7 sobriety programs have seen success with such programs in that
16 participants have higher rates of maintaining sobriety, have lower rates
17 of recidivism, are more likely to become productive members of society,
18 and are less likely to be a continued public risk. Therefore, it is in
19 the best interests of the State of Nebraska to establish 24/7 sobriety
20 programs.

21 (2) A 24/7 sobriety program shall coordinate efforts among various
22 state and local governmental agencies for finding and implementing
23 alternatives to incarceration for offenses that involve operating a motor
24 vehicle under the influence of alcohol or other drugs.

25 Sec. 3. For purposes of the 24/7 Sobriety Program Act:

26 (1) 24/7 sobriety program means a program that, as a condition of
27 bond, requires an individual who was arrested to:

28 (a) Totally abstain from alcohol or drugs for a specified period of
29 time; and

30 (b) Be subject to testing for alcohol or drugs at least twice per
31 day at a testing location by use of a continuous alcohol monitoring

1 device, by drug patch, by urinalysis, by ignition interlock device
2 provided the device is able to test twice a day without motor vehicle
3 operation, or by a preliminary breath testing device;

4 (2) Department means the Department of Motor Vehicles; and

5 (3) Director means the Director of Motor Vehicles.

6 Sec. 4. (1) Each county, through its county sheriff, may
7 participate in a 24/7 sobriety program. If a sheriff is unwilling or
8 unable to participate in a 24/7 sobriety program, the sheriff may
9 designate an entity willing to provide the service.

10 (2) A 24/7 sobriety program shall have the following minimum program
11 requirements:

12 (a) A testing location or testing locations established by the
13 county sheriff or designated entity;

14 (b) Participants shall enter into a participation agreement with the
15 sheriff or designated entity;

16 (c) Testing of participants shall be at approximate twelve-hour
17 intervals;

18 (d) Participants in the program shall not consume alcohol or any
19 drug not prescribed by a physician; and

20 (e) Testing shall occur twice a day, every day.

21 (3) If a test in violation of the 24/7 sobriety program occurs:

22 (a) The first sanction against a participant shall be a continuous
23 twelve-hour sanction and release back into the program. The twelve-hour
24 sanction may be served in jail, or in a detoxification center;

25 (b) The second sanction against a participant shall be twenty-four
26 hours and shall be served in jail with release back into the program;

27 (c) The third sanction through the fifth sanction against a
28 participant shall be forty-eight hours and shall be served in jail and
29 with the participant's bond reset by the court; and

30 (d) The sixth sanction against a participant shall be removal from
31 the 24/7 sobriety program and the participant shall be ineligible for

1 further participation in the program for that case.

2 (4) Upon court approval, participants may request sobriety tests be
3 accomplished by the use of a continuous alcohol monitoring device.

4 Participants shall be responsible for the cost of such device, and such
5 costs shall be set out in the participation agreement.

6 (5) Each sheriff or designated entity shall separately account for
7 all fees collected by a 24/7 sobriety program.

8 (6) A reasonable fee of no more than three dollars per day shall be
9 established by the sheriff or designated agency to cover the setup and
10 operation of a 24/7 sobriety program for all participants. Reasonable
11 program and testing fees may be charged. Test costs may be higher if the
12 participant is utilizing a continuous alcohol monitoring device or is
13 involved in the program due to a non-alcohol, drug-related offense.
14 Program costs shall be set forth in the participation agreement. These
15 costs and fees may be waived by the court if the participant has made a
16 showing to the court of an inability to pay.

17 Sec. 5. (1) If an individual has been arrested for a violation of
18 section 60-6,196 or 60-6,197 and is participating in a 24/7 sobriety
19 program, he or she may petition the court for an order allowing him or
20 her to apply for a 24/7 sobriety program permit as set forth in section 6
21 of this act.

22 (2) The court shall only issue an order under subsection (1) of this
23 section if the court has sufficient proof the individual is enrolled in a
24 24/7 sobriety program and has gone at least thirty consecutive days
25 without any sanctions being imposed.

26 (3) If, after the issuance of an order allowing an individual to
27 apply for a 24/7 sobriety program permit, the individual withdraws or is
28 terminated from the 24/7 sobriety program, the court shall immediately
29 issue an order revoking the 24/7 sobriety program permit and cause a copy
30 of the order to be sent to the director.

31 (4) The holder of a commercial driver's license under the Motor

1 Vehicle Operator's License Act is not eligible for a 24/7 sobriety
2 program permit.

3 Sec. 6. (1) Upon receipt by the director of (a) a certified copy of
4 a court order issued under subsection (1) of section 5 of this act, (b)
5 sufficient evidence that the person has surrendered his or her operator's
6 license to the department, and (c) payment of the fee provided in section
7 60-4,115, such person may apply for a 24/7 sobriety program permit. All
8 permits issued pursuant to this section shall indicate that the permit is
9 not valid for the operation of a commercial motor vehicle.

10 (2) A 24/7 sobriety program permit shall only be available to a
11 holder of a Class M or O operator's license.

12 (3) The director shall revoke a person's 24/7 sobriety program
13 permit issued under this section upon receipt of an (a) abstract of
14 conviction indicating that the person had his or her operating privileges
15 revoked or (b) order from a court revoking the person's 24/7 sobriety
16 program permit.

17 Sec. 7. Section 29-901, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 29-901 (1) Any bailable defendant shall be ordered released from
20 custody pending judgment on his or her personal recognizance unless the
21 judge determines in the exercise of his or her discretion that such a
22 release will not reasonably assure the appearance of the defendant as
23 required or that such a release could jeopardize the safety and
24 maintenance of evidence or the safety of victims, witnesses, or other
25 persons in the community. The court shall consider all methods of bond
26 and conditions of release to avoid pretrial incarceration. If the judge
27 determines that the defendant shall not be released on his or her
28 personal recognizance, the judge shall consider the defendant's financial
29 ability to pay a bond and shall impose the least onerous of the following
30 conditions that will reasonably assure the defendant's appearance or that
31 will eliminate or minimize the risk of harm to others or the public at

1 large:

2 (a) Place the defendant in the custody of a designated person or
3 organization agreeing to supervise the defendant;

4 (b) Place restrictions on the travel, association, or place of abode
5 of the defendant during the period of such release; or

6 (c) Require, at the option of any bailable defendant, either of the
7 following:

8 (i) The execution of an appearance bond in a specified amount and
9 the deposit with the clerk of the court in cash of a sum not to exceed
10 ten percent of the amount of the bond, ninety percent of such deposit to
11 be returned to the defendant upon the performance of the appearance or
12 appearances and ten percent to be retained by the clerk as appearance
13 bond costs, except that when no charge is subsequently filed against the
14 defendant or if the charge or charges which are filed are dropped before
15 the appearance of the defendant which the bond was to assure, the entire
16 deposit shall be returned to the defendant. If the bond is subsequently
17 reduced by the court after the original bond has been posted, no
18 additional appearance bond costs shall be retained by the clerk. The
19 difference in the appearance bond costs between the original bond and the
20 reduced bond shall be returned to the defendant. In no event shall the
21 deposit be less than twenty-five dollars. Whenever jurisdiction is
22 transferred from a court requiring an appearance bond under this
23 subdivision to another state court, the transferring court shall transfer
24 the ninety percent of the deposit remaining after the appearance bond
25 costs have been retained. No further costs shall be levied or collected
26 by the court acquiring jurisdiction; or

27 (ii) The execution of a bail bond with such surety or sureties as
28 shall seem proper to the judge or, in lieu of such surety or sureties, at
29 the option of such person, a cash deposit of such sum so fixed,
30 conditioned for his or her appearance before the proper court, to answer
31 the offense with which he or she may be charged and to appear at such

1 times thereafter as may be ordered by the proper court. The cash deposit
2 shall be returned to the defendant upon the performance of all
3 appearances.

4 (2) If the amount of bail is deemed insufficient by the court before
5 which the offense is pending, the court may order an increase of such
6 bail and the defendant shall provide the additional undertaking, written
7 or cash, to secure his or her release. All recognizances in criminal
8 cases shall be in writing and be continuous from term to term until final
9 judgment of the court in such cases and shall also extend, when the court
10 has suspended execution of sentence for a limited time, as provided in
11 section 29-2202, or, when the court has suspended execution of sentence
12 to enable the defendant to apply for a writ of error to the Supreme Court
13 or Court of Appeals, as provided in section 29-2301, until the period of
14 suspension has expired. When two or more indictments or informations are
15 returned against the same person at the same term of court, the
16 recognizance given may be made to include all offenses charged therein.
17 Each surety on such recognizance shall be required to justify under oath
18 in a sum twice the amount of such recognizance and give the description
19 of real estate owned by him or her of a value above encumbrance equal to
20 the amount of such justification and shall name all other cases pending
21 in which he or she is a surety. No one shall be accepted as surety on
22 recognizance aggregating a sum in excess of his or her equity in the real
23 estate, but such recognizance shall not constitute a lien on the real
24 estate described therein until judgment is entered thereon against such
25 surety.

26 (3) In order to assure compliance with the conditions of release
27 referred to in subsection (1) of this section, the court may order a
28 defendant to be supervised by a person, an organization, or a pretrial
29 services program approved by the county board. A court shall waive any
30 fees or costs associated with the conditions of release or supervision if
31 the court finds the defendant is unable to pay for such costs.

1 Eligibility for release or supervision by such pretrial release program
2 shall under no circumstances be conditioned upon the defendant's ability
3 to pay. While under supervision of an approved entity, and in addition to
4 the conditions of release referred to in subsection (1) of this section,
5 the court may impose the following conditions:

6 (a) Periodic telephone contact by the defendant with the
7 organization or pretrial services program;

8 (b) Periodic office visits by the defendant to the organization or
9 pretrial services program;

10 (c) Periodic visits to the defendant's home by the organization or
11 pretrial services program;

12 (d) Mental health or substance abuse treatment for the defendant,
13 including residential treatment, if the defendant consents or agrees to
14 the treatment;

15 (e) Periodic alcohol or drug testing of the defendant;

16 (f) Domestic violence counseling for the defendant, if the defendant
17 consents or agrees to the counseling;

18 (g) Electronic or global-positioning monitoring of the defendant;
19 and

20 (h) Participation in a 24/7 sobriety program under the 24/7 Sobriety
21 Program Act; and

22 (i) ~~(h)~~ Any other supervision techniques shown by research to
23 increase court appearance and public safety rates for defendants released
24 on bond.

25 (4) The incriminating results of any drug or alcohol test or any
26 information learned by a representative of an organization or program
27 shall not be admissible in any proceeding, except for a proceeding
28 relating to revocation or amendment of conditions of bond release.

29 Sec. 8. Section 60-480, Revised Statutes Cumulative Supplement,
30 2018, is amended to read:

31 60-480 (1) Operators' licenses issued by the department pursuant to

1 the Motor Vehicle Operator's License Act shall be classified as follows:

2 (a) Class 0 license. The operator's license which authorizes the
3 person to whom it is issued to operate on highways any motor vehicle
4 except a commercial motor vehicle or motorcycle;

5 (b) Class M license. The operator's license or endorsement on a
6 Class 0 license, provisional operator's permit, learner's permit, school
7 permit, or commercial driver's license which authorizes the person to
8 whom it is issued to operate a motorcycle on highways;

9 (c) CDL-commercial driver's license. The operator's license which
10 authorizes the person to whom it is issued to operate a class of
11 commercial motor vehicle or any motor vehicle, except a motorcycle, on
12 highways;

13 (d) CLP-commercial learner's permit. A permit which when carried
14 with a Class 0 license authorizes an individual to operate a class of
15 commercial motor vehicle when accompanied by a holder of a valid
16 commercial driver's license for purposes of behind-the-wheel training.
17 When issued to a commercial driver's license holder, a CLP-commercial
18 learner's permit serves as authorization for accompanied behind-the-wheel
19 training in a commercial motor vehicle for which the holder's current
20 commercial driver's license is not valid;

21 (e) RCDL-restricted commercial driver's license. The class of
22 commercial driver's license which, when held with an annual seasonal
23 permit, authorizes a seasonal commercial motor vehicle operator as
24 defined in section 60-4,146.01 to operate any Class B Heavy Straight
25 Vehicle or Class C Small Vehicle commercial motor vehicle for purposes of
26 a farm-related or ranch-related service industry as defined in such
27 section within one hundred fifty miles of the employer's place of
28 business or the farm or ranch currently being served as provided in such
29 section or any other motor vehicle, except a motorcycle, on highways;

30 (f) POP-provisional operator's permit. A motor vehicle operating
31 permit with restrictions issued pursuant to section 60-4,120.01 to a

1 person who is at least sixteen years of age but less than eighteen years
2 of age which authorizes the person to operate any motor vehicle except a
3 commercial motor vehicle or motorcycle;

4 (g) SCP-school permit. A permit issued to a student between fourteen
5 years and two months of age and sixteen years of age for the purpose of
6 driving in accordance with the requirements of section 60-4,124;

7 (h) FMP-farm permit. A permit issued to a person for purposes of
8 operating farm tractors and other motorized implements of farm husbandry
9 on highways in accordance with the requirements of section 60-4,126;

10 (i) LPD-learner's permit. A permit issued in accordance with the
11 requirements of section 60-4,123 to a person at least fifteen years of
12 age which authorizes the person to operate a motor vehicle, except a
13 commercial motor vehicle, for learning purposes when accompanied by a
14 licensed operator who is at least twenty-one years of age and who
15 possesses a valid operator's license issued by this state or another
16 state;

17 (j) LPE-learner's permit. A permit issued to a person at least
18 fourteen years of age which authorizes the person to operate a motor
19 vehicle, except a commercial motor vehicle, while learning to drive in
20 preparation for application for a school permit;

21 (k) EDP-employment driving permit. A permit issued to a person which
22 authorizes the person to operate a motor vehicle, except a commercial
23 motor vehicle, pursuant to the requirements of sections 60-4,129 and
24 60-4,130;

25 (l) IIP-ignition interlock permit. A permit issued to a person which
26 authorizes the person to operate a motor vehicle, except a commercial
27 motor vehicle, which is equipped with an ignition interlock device;

28 (m) SEP-seasonal permit. A permit issued to a person who holds a
29 restricted commercial driver's license authorizing the person to operate
30 a commercial motor vehicle, as prescribed by section 60-4,146.01, for no
31 more than one hundred eighty consecutive days in any twelve-month period.

1 The seasonal permit shall be valid and run from the date of original
2 issuance of the permit for one hundred eighty days and from the date of
3 annual revalidation of the permit;~~and~~

4 (n) MHP-medical hardship driving permit. A permit issued to a person
5 which authorizes the person to operate a motor vehicle, except a
6 commercial motor vehicle, pursuant to the requirements of sections
7 60-4,130.01 and 60-4,130.02; ~~and~~ -

8 (o) SPP-24/7 sobriety program permit. A permit issued to a person
9 which authorizes the person to operate a motor vehicle, except a
10 commercial motor vehicle, pursuant to the 24/7 Sobriety Program Act.

11 (2) For purposes of this section, motorcycle does not include an
12 autocycle.

13 Sec. 9. Section 60-498.01, Revised Statutes Cumulative Supplement,
14 2018, is amended to read:

15 60-498.01 (1) Because persons who drive while under the influence of
16 alcohol present a hazard to the health and safety of all persons using
17 the highways, a procedure is needed for the swift and certain revocation
18 of the operator's license of any person who has shown himself or herself
19 to be a health and safety hazard (a) by driving with an excessive
20 concentration of alcohol in his or her body or (b) by driving while under
21 the influence of alcohol.

22 (2) If a person arrested as described in subsection (2) of section
23 60-6,197 refuses to submit to the chemical test of blood, breath, or
24 urine required by section 60-6,197, the test shall not be given except as
25 provided in section 60-6,210 for the purpose of medical treatment and the
26 arresting peace officer, as agent for the director, shall verbally serve
27 notice to the arrested person of the intention to immediately confiscate
28 and revoke the operator's license of such person and that the revocation
29 will be automatic fifteen days after the date of arrest. The arresting
30 peace officer shall within ten days forward to the director a sworn
31 report stating (a) that the person was arrested as described in

1 subsection (2) of section 60-6,197 and the reasons for such arrest, (b)
2 that the person was requested to submit to the required test, and (c)
3 that the person refused to submit to the required test. The director may
4 accept a sworn report submitted electronically.

5 (3) If a person arrested as described in subsection (2) of section
6 60-6,197 submits to the chemical test of blood or breath required by
7 section 60-6,197, the test discloses the presence of alcohol in any of
8 the concentrations specified in section 60-6,196, and the test results
9 are available to the arresting peace officer while the arrested person is
10 still in custody, the arresting peace officer, as agent for the director,
11 shall verbally serve notice to the arrested person of the intention to
12 immediately confiscate and revoke the operator's license of such person
13 and that the revocation will be automatic fifteen days after the date of
14 arrest. The arresting peace officer shall within ten days forward to the
15 director a sworn report stating (a) that the person was arrested as
16 described in subsection (2) of section 60-6,197 and the reasons for such
17 arrest, (b) that the person was requested to submit to the required test,
18 and (c) that the person submitted to a test, the type of test to which he
19 or she submitted, and that such test revealed the presence of alcohol in
20 a concentration specified in section 60-6,196. The director may accept a
21 sworn report submitted electronically.

22 (4) On behalf of the director, the arresting peace officer
23 submitting a sworn report under subsection (2) or (3) of this section
24 shall serve notice of the revocation on the arrested person, and the
25 revocation shall be effective fifteen days after the date of arrest. The
26 notice of revocation shall contain a statement explaining the operation
27 of the administrative license revocation procedure. The peace officer
28 shall also provide to the arrested person information prepared and
29 approved by the director describing how to request an administrative
30 license revocation hearing or apply for an ignition interlock permit or a
31 24/7 sobriety program permit ~~from the department~~. A petition for an

1 administrative license revocation hearing must be completed and delivered
2 to the department or postmarked within ten days after the person's arrest
3 or the person's right to an administrative license revocation hearing to
4 contest the revocation will be foreclosed. The director shall prepare and
5 approve the information form, the application for an ignition interlock
6 permit, and the notice of revocation and shall provide them to law
7 enforcement agencies.

8 If the person has an operator's license, the arresting peace officer
9 shall take possession of the license and issue a temporary operator's
10 license valid for fifteen days. The arresting peace officer shall forward
11 the operator's license to the department along with the sworn report made
12 under subsection (2) or (3) of this section.

13 (5)(a) If the results of a chemical test indicate the presence of
14 alcohol in a concentration specified in section 60-6,196, the results are
15 not available to the arresting peace officer while the arrested person is
16 in custody, and the notice of revocation has not been served as required
17 by subsection (4) of this section, the peace officer shall forward to the
18 director a sworn report containing the information prescribed by
19 subsection (3) of this section within ten days after receipt of the
20 results of the chemical test. If the sworn report is not received within
21 ten days, the revocation shall not take effect. The director may accept a
22 sworn report submitted electronically.

23 (b) Upon receipt of the report, the director shall serve the notice
24 of revocation on the arrested person by mail to the address appearing on
25 the records of the director. If the address on the director's records
26 differs from the address on the arresting peace officer's report, the
27 notice shall be sent to both addresses. The notice of revocation shall
28 contain a statement explaining the operation of the administrative
29 license revocation procedure. The director shall also provide to the
30 arrested person information prepared and approved by the director
31 describing how to request an administrative license revocation hearing

1 and an application for an ignition interlock permit. A petition for an
2 administrative license revocation hearing must be completed and delivered
3 to the department or postmarked within ten days after the mailing of the
4 notice of revocation or the person's right to an administrative license
5 revocation hearing to contest the revocation will be foreclosed. The
6 director shall prepare and approve the ignition interlock permit
7 application and the notice of revocation. The revocation shall be
8 effective fifteen days after the date of mailing.

9 (c) If the records of the director indicate that the arrested person
10 possesses an operator's license, the director shall include with the
11 notice of revocation a temporary operator's license which expires fifteen
12 days after the date of mailing. Any arrested person who desires an
13 administrative license revocation hearing and has been served a notice of
14 revocation pursuant to this subsection shall return his or her operator's
15 license with the petition requesting the hearing. If the operator's
16 license is not included with the petition requesting the hearing, the
17 director shall deny the petition.

18 (6)(a) An arrested person's operator's license confiscated pursuant
19 to subsection (4) of this section shall be automatically revoked upon the
20 expiration of fifteen days after the date of arrest, and the petition
21 requesting the hearing shall be completed and delivered to the department
22 or postmarked within ten days after the person's arrest. An arrested
23 person's operator's license confiscated pursuant to subsection (5) of
24 this section shall be automatically revoked upon the expiration of
25 fifteen days after the date of mailing of the notice of revocation by the
26 director, and the arrested person shall postmark or return to the
27 director a petition within ten days after the mailing of the notice of
28 revocation if the arrested person desires an administrative license
29 revocation hearing. The petition shall be in writing and shall state the
30 grounds on which the person is relying to prevent the revocation from
31 becoming effective. The hearing and any prehearing conference may be

1 conducted in person or by telephone, television, or other electronic
2 means at the discretion of the director, and all parties may participate
3 by such means at the discretion of the director.

4 (b) The director shall conduct the hearing within twenty days after
5 a petition is received by the director. Upon receipt of a petition, the
6 director shall notify the petitioner of the date and location for the
7 hearing by mail postmarked at least seven days prior to the hearing date.
8 The filing of the petition shall not prevent the automatic revocation of
9 the petitioner's operator's license at the expiration of the fifteen-day
10 period. A continuance of the hearing to a date beyond the expiration of
11 the temporary operator's license shall stay the expiration of the
12 temporary license when the request for continuance is made by the
13 director.

14 (c) At hearing the issues under dispute shall be limited to:

15 (i) In the case of a refusal to submit to a chemical test of blood,
16 breath, or urine:

17 (A) Did the peace officer have probable cause to believe the person
18 was operating or in the actual physical control of a motor vehicle in
19 violation of section 60-6,196 or a city or village ordinance enacted in
20 conformance with such section; and

21 (B) Did the person refuse to submit to or fail to complete a
22 chemical test after being requested to do so by the peace officer; or

23 (ii) If the chemical test discloses the presence of alcohol in a
24 concentration specified in section 60-6,196:

25 (A) Did the peace officer have probable cause to believe the person
26 was operating or in the actual physical control of a motor vehicle in
27 violation of section 60-6,196 or a city or village ordinance enacted in
28 conformance with such section; and

29 (B) Was the person operating or in the actual physical control of a
30 motor vehicle while having an alcohol concentration in violation of
31 subsection (1) of section 60-6,196.

1 (7)(a) Any arrested person who submits an application for an
2 ignition interlock permit in lieu of a petition for an administrative
3 license revocation hearing regarding the revocation of his or her
4 operator's license pursuant to this section shall complete the
5 application for an ignition interlock permit in which such person
6 acknowledges that he or she understands that he or she will have his or
7 her license administratively revoked pursuant to this section, that he or
8 she waives his or her right to a hearing to contest the revocation, and
9 that he or she understands that he or she is required to have an ignition
10 interlock permit in order to operate a motor vehicle for the period of
11 the revocation and shall include sufficient evidence that an ignition
12 interlock device is installed on one or more vehicles that will be
13 operated by the arrested person. Upon the arrested person's completion of
14 the ignition interlock permit application process, the department shall
15 issue the person an ignition interlock permit, subject to any applicable
16 requirements and any applicable no-drive period if the person is
17 otherwise eligible.

18 (b) An arrested person who is issued an ignition interlock permit
19 pursuant to this section or a 24/7 sobriety program permit under the 24/7
20 Sobriety Program Act as a condition of his or her bond shall receive day-
21 for-day credit for the period he or she has a valid ignition interlock
22 permit or valid 24/7 sobriety program permit against the license
23 revocation period imposed by the court arising from the same incident.

24 (c) If a person files a completed application for an ignition
25 interlock permit, the person waives his or her right to contest the
26 revocation of his or her operator's license.

27 (8) Any person who has not petitioned for an administrative license
28 revocation hearing and is subject to an administrative license revocation
29 may immediately apply for an ignition interlock permit or a 24/7 sobriety
30 program permit under the 24/7 Sobriety Program Act to use during the
31 applicable period of revocation set forth in section 60-498.02, subject

1 to the following additional restrictions:

2 (a)(i) ~~(a)~~ If such person submitted to a chemical test which
3 disclosed the presence of a concentration of alcohol in violation of
4 section 60-6,196 and has no prior administrative license revocations on
5 which final orders have been issued during the immediately preceding
6 fifteen-year period at the time the order of revocation is issued, the
7 ignition interlock permit will be immediately available fifteen days
8 after the date of arrest or the date notice of revocation was provided to
9 the arrested person, as long as he or she is otherwise eligible for an
10 ignition interlock permit, upon completion of an application process for
11 an ignition interlock permit; or

12 (ii) If such person is enrolled in a 24/7 sobriety program under the
13 24/7 Sobriety Program Act and has not violated any program conditions for
14 drugs or alcohol after thirty consecutive days of testing, he or she may
15 apply for a 24/7 sobriety program permit as a condition of his or her
16 bond under the 24/7 Sobriety Program Act;

17 (b)(i) ~~(b)~~ If such person submitted to a chemical test which
18 disclosed the presence of a concentration of alcohol in violation of
19 section 60-6,196 and has one or more prior administrative license
20 revocations on which final orders have been issued during the immediately
21 preceding fifteen-year period at the time the order of revocation is
22 issued, the ignition interlock permit or 24/7 sobriety program permit
23 will be available beginning fifteen days after the date of arrest or the
24 date notice of revocation was provided to the arrested person plus forty-
25 five additional days of no driving, as long as he or she is otherwise
26 eligible for an ignition interlock permit, upon completion of an
27 application process for an ignition interlock permit; or

28 (ii) If such person is enrolled in the 24/7 sobriety program under
29 the 24/7 Sobriety Program Act and has not violated any program conditions
30 for drugs or alcohol after thirty consecutive days of testing, he or she
31 may apply for a 24/7 sobriety program permit as a condition of his or her

1 bond under the 24/7 Sobriety Program Act before the expiration of the
2 forty-five day no driving period;

3 (c)(i) (c) If such person refused to submit to a chemical test of
4 blood, breath, or urine as required by section 60-6,197, the ignition
5 interlock permit or 24/7 sobriety program permit will be available
6 beginning fifteen days after the date of arrest plus ninety additional
7 days of no driving, as long as he or she is otherwise eligible for an
8 ignition interlock permit, upon completion of an application process for
9 an ignition interlock permit; or and

10 (ii) If such person is enrolled in the 24/7 sobriety program under
11 the 24/7 Sobriety Program Act and has not violated any program conditions
12 for drugs or alcohol after thirty consecutive days of testing, he or she
13 may apply for a 24/7 sobriety program permit as a condition of his or her
14 bond under the 24/7 Sobriety Program Act before the expiration of the
15 ninety days of no driving period; and

16 (d) Any person who petitions for an administrative license
17 revocation hearing shall not be eligible for an ignition interlock permit
18 unless ordered by the court at the time of sentencing for the related
19 criminal proceeding.

20 (9) The director shall adopt and promulgate rules and regulations to
21 govern the conduct of the administrative license revocation hearing and
22 insure that the hearing will proceed in an orderly manner. The director
23 may appoint a hearing officer to preside at the hearing, administer
24 oaths, examine witnesses, take testimony, and report to the director. Any
25 motion for discovery filed by the petitioner shall entitle the prosecutor
26 to receive full statutory discovery from the petitioner upon a
27 prosecutor's request to the relevant court pursuant to section 29-1912 in
28 any criminal proceeding arising from the same arrest. A copy of the
29 motion for discovery shall be filed with the department and a copy
30 provided to the prosecutor in the jurisdiction in which the petitioner
31 was arrested. Incomplete discovery shall not stay the hearing unless the

1 petitioner requests a continuance. All proceedings before the hearing
2 officer shall be recorded. Upon receipt of the arresting peace officer's
3 sworn report, the director's order of revocation has prima facie validity
4 and it becomes the petitioner's burden to establish by a preponderance of
5 the evidence grounds upon which the operator's license revocation should
6 not take effect. The director shall make a determination of the issue
7 within seven days after the conclusion of the hearing. A person whose
8 operator's license is revoked following a hearing requested pursuant to
9 this section may appeal the order of revocation as provided in section
10 60-498.04.

11 (10) Any person who tampers with or circumvents an ignition
12 interlock device installed pursuant to sections 60-498.01 to 60-498.04 or
13 who operates a motor vehicle not equipped with a functioning ignition
14 interlock device required pursuant to such sections or otherwise is in
15 violation of the purposes for operation indicated on the ignition
16 interlock permit under such sections shall, in addition to any possible
17 criminal charges, have his or her revocation period and ignition
18 interlock permit extended for six months beyond the end of the original
19 revocation period.

20 (11) A person under the age of eighteen years who holds any license
21 or permit issued under the Motor Vehicle Operator's License Act and has
22 violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b)
23 or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or
24 60-6,197.06 shall not be eligible for an ignition interlock permit.

25 Sec. 10. Section 60-4,115, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 60-4,115 (1) Fees for operators' licenses and state identification
28 cards shall be collected by department personnel or the county treasurer
29 and distributed according to the table in subsection (2) of this section,
30 except for the ignition interlock permit and associated fees as outlined
31 in subsection (4) of this section and the 24/7 sobriety program permit

1 and associated fees as outlined in subsection (5) of this section. County
2 officials shall remit the county portion of the fees collected to the
3 county treasurer for placement in the county general fund. All other fees
4 collected shall be remitted to the State Treasurer for credit to the
5 appropriate fund.

6 (2) The fees provided in this subsection in the following dollar
7 amounts apply for operators' licenses and state identification cards.

		Department		
		County	of Motor	State
Document	Total	General	Vehicles	General
	Fee	Fund	Cash Fund	Fund
12 State identification card:				
13 Valid for 1 year or less	5.00	2.75	1.25	1.00
14 Valid for more than 1 year				
15 but not more than 2 years	10.00	2.75	4.00	3.25
16 Valid for more than 2 years				
17 but not more than 3 years	14.00	2.75	5.25	6.00
18 Valid for more than 3 years				
19 but not more than 4 years	19.00	2.75	8.00	8.25
20 Valid for more than 4 years				
21 for person under 21	24.00	2.75	10.25	11.00
22 Valid for 5 years	24.00	3.50	10.25	10.25
23 Replacement	11.00	2.75	6.00	2.25
24 Class O or M operator's				
25 license:				
26 Valid for 1 year or less	5.00	2.75	1.25	1.00
27 Valid for more than 1 year				
28 but not more than 2 years	10.00	2.75	4.00	3.25
29 Valid for more than 2 years				
30 but not more than 3 years	14.00	2.75	5.25	6.00

1	Valid for more than 3 years				
2	but not more than 4 years	19.00	2.75	8.00	8.25
3	Valid for 5 years	24.00	3.50	10.25	10.25
4	Bioptic or telescopic lens				
5	restriction:				
6	Valid for 1 year or less	5.00	0	5.00	0
7	Valid for more than 1 year				
8	but not more than 2 years	10.00	2.75	4.00	3.25
9	Replacement	11.00	2.75	6.00	2.25
10	Add, change, or remove class,				
11	endorsement, or restriction	5.00	0	5.00	0
12	Provisional operator's permit:				
13	Original	15.00	2.75	12.25	0
14	Bioptic or telescopic lens				
15	restriction:				
16	Valid for 1 year or less	5.00	0	5.00	0
17	Valid for more than 1 year				
18	but not more than 2 years	15.00	2.75	12.25	0
19	Replacement	11.00	2.75	6.00	2.25
20	Add, change, or remove class,				
21	endorsement, or restriction	5.00	0	5.00	0
22	LPD-learner's permit:				
23	Original	8.00	.25	5.00	2.75
24	Replacement	11.00	2.75	6.00	2.25
25	Add, change, or remove class,				
26	endorsement, or restriction	5.00	0	5.00	0
27	LPE-learner's permit:				
28	Original	8.00	.25	5.00	2.75
29	Replacement	11.00	2.75	6.00	2.25
30	Add, change, or remove class,				

1	endorsement, or restriction	5.00	0	5.00	0
2	School permit:				
3	Original	8.00	.25	5.00	2.75
4	Replacement	11.00	2.75	6.00	2.25
5	Add, change, or remove class,				
6	endorsement, or restriction	5.00	0	5.00	0
7	Farm permit:				
8	Original or renewal	5.00	.25	0	4.75
9	Replacement	5.00	.25	0	4.75
10	Temporary	5.00	.25	0	4.75
11	Add, change, or remove class,				
12	endorsement, or restriction	5.00	0	5.00	0
13	Driving permits:				
14	Employment	45.00	0	5.00	40.00
15	Medical hardship	45.00	0	5.00	40.00
16	Replacement	10.00	.25	5.00	4.75
17	Add, change, or remove class,				
18	endorsement, or restriction	5.00	0	5.00	0
19	Commercial driver's license:				
20	Valid for 1 year or less	11.00	1.75	5.00	4.25
21	Valid for more than 1 year				
22	but not more than 2 years	22.00	1.75	5.00	15.25
23	Valid for more than 2 years				
24	but not more than 3 years	33.00	1.75	5.00	26.25
25	Valid for more than 3 years				
26	but not more than 4 years	44.00	1.75	5.00	37.25
27	Valid for 5 years	55.00	1.75	5.00	48.25
28	Bioptic or telescopic lens				
29	restriction:				
30	Valid for one year or less	11.00	1.75	5.00	4.25

1	Valid for more than 1 year				
2	but not more than 2 years	22.00	1.75	5.00	15.25
3	Replacement	11.00	2.75	6.00	2.25
4	Add, change, or remove class,				
5	endorsement, or restriction	10.00	1.75	5.00	3.25
6	CLP-commercial learner's				
7	permit:				
8	Original or renewal	10.00	.25	5.00	4.75
9	Replacement	10.00	.25	5.00	4.75
10	Add, change, or remove class,				
11	endorsement, or restriction	10.00	.25	5.00	4.75
12	Seasonal permit:				
13	Original or renewal	10.00	.25	5.00	4.75
14	Replacement	10.00	.25	5.00	4.75
15	Add, change, or remove class,				
16	endorsement, or restriction	10.00	.25	5.00	4.75

17 (3) If the department issues an operator's license or a state
 18 identification card and collects the fees, the department shall remit the
 19 county portion of the fees to the State Treasurer for credit to the
 20 Department of Motor Vehicles Cash Fund.

21 (4)(a) The fee for an ignition interlock permit shall be forty-five
 22 dollars. Five dollars of the fee shall be remitted to the State Treasurer
 23 for credit to the Department of Motor Vehicles Cash Fund. Forty dollars
 24 of the fee shall be remitted to the State Treasurer for credit to the
 25 Department of Motor Vehicles Ignition Interlock Fund.

26 (b) The fee for a replacement ignition interlock permit shall be
 27 eleven dollars. Two dollars and seventy-five cents of the fee shall be
 28 remitted to the county treasurer for credit to the county general fund.
 29 Six dollars of the fee shall be remitted to the State Treasurer for
 30 credit to the Department of Motor Vehicles Cash Fund. Two dollars and
 31 twenty-five cents of the fee shall be remitted to the State Treasurer for

1 credit to the General Fund.

2 (c) The fee for adding, changing, or removing a class, endorsement,
3 or restriction on an ignition interlock permit shall be five dollars. The
4 fee shall be remitted to the State Treasurer for credit to the Department
5 of Motor Vehicles Cash Fund.

6 (5)(a) The fee for a 24/7 sobriety program permit shall be fifteen
7 dollars. Five dollars of the fee shall be remitted to the State Treasurer
8 for credit to the Department of Motor Vehicles Cash Fund. Ten dollars of
9 the fee shall be remitted to the State Treasurer for credit to the
10 Department of Motor Vehicles Ignition Interlock Fund.

11 (b) The fee for a replacement 24/7 sobriety program permit shall be
12 eleven dollars. Two dollars and seventy-five cents of the fee shall be
13 remitted to the county treasurer for credit to the county general fund.
14 Six dollars of the fee shall be remitted to the State Treasurer for
15 credit to the Department of Motor Vehicles Cash Fund. Two dollars and
16 twenty-five cents of the fee shall be remitted to the State Treasurer for
17 credit to the General Fund.

18 (c) The fee for adding, changing, or removing a class, endorsement,
19 or restriction on a 24/7 sobriety program permit shall be five dollars.
20 The fee shall be remitted to the State Treasurer for credit to the
21 Department of Motor Vehicles Cash Fund.

22 (6) ~~(5)~~ The department and its agents may collect an identity
23 security surcharge to cover the cost of security and technology practices
24 used to protect the identity of applicants for and holders of operators'
25 licenses and state identification cards and to reduce identity theft,
26 fraud, and forgery and counterfeiting of such licenses and cards to the
27 maximum extent possible. The surcharge shall be in addition to all other
28 required fees for operators' licenses and state identification cards. The
29 amount of the surcharge shall be determined by the department. The
30 surcharge shall not exceed eight dollars. The surcharge shall be remitted
31 to the State Treasurer for credit to the Department of Motor Vehicles

1 Cash Fund.

2 Sec. 11. Section 60-6,197.05, Revised Statutes Cumulative
3 Supplement, 2018, is amended to read:

4 60-6,197.05 Any period of revocation imposed by the court for a
5 violation of section 60-6,196 or 60-6,197 shall be reduced by any period
6 of revocation imposed under sections 60-498.01 to 60-498.04, including
7 any period during which a person has a valid ignition interlock permit or
8 24/7 sobriety program permit, arising from the same incident.

9 Sec. 12. Section 60-6,197.06, Revised Statutes Cumulative
10 Supplement, 2018, is amended to read:

11 60-6,197.06 (1) Unless otherwise provided by law pursuant to an
12 ignition interlock permit or a 24/7 sobriety program permit, any person
13 operating a motor vehicle on the highways or streets of this state while
14 his or her operator's license has been revoked pursuant to section
15 28-306, section 60-698, subdivision (4), (5), (6), (7), (8), (9), or (10)
16 of section 60-6,197.03, or section 60-6,198, or pursuant to subdivision
17 (2)(c) or (2)(d) of section 60-6,196 or subdivision (4)(c) or (4)(d) of
18 section 60-6,197 as such subdivisions existed prior to July 16, 2004,
19 shall be guilty of a Class IV felony, and the court shall, as part of the
20 judgment of conviction, revoke the operator's license of such person for
21 a period of fifteen years from the date ordered by the court and shall
22 issue an order pursuant to section 60-6,197.01. Such revocation and order
23 shall be administered upon sentencing, upon final judgment of any appeal
24 or review, or upon the date that any probation is revoked.

25 (2) If such person has had a conviction under this section or under
26 subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197,
27 as such subsections existed prior to July 16, 2004, and operates a motor
28 vehicle on the highways or streets of this state while his or her
29 operator's license has been revoked pursuant to such conviction, such
30 person shall be guilty of a Class IIA felony, and the court shall, as
31 part of the judgment of conviction, revoke the operator's license of such

1 person for an additional period of fifteen years from the date ordered by
2 the court and shall issue an order pursuant to section 60-6,197.01. Such
3 revocation and order shall be administered upon sentencing, upon final
4 judgment of any appeal or review, or upon the date that any probation is
5 revoked.

6 Sec. 13. Section 60-6,211.11, Revised Statutes Cumulative
7 Supplement, 2018, is amended to read:

8 60-6,211.11 (1) Except as provided in subsection (2) of this
9 section, any person ordered by a court or the Department of Motor
10 Vehicles to operate only motor vehicles equipped with an ignition
11 interlock device is guilty of a Class I misdemeanor if he or she (a)
12 tampers with or circumvents and then operates a motor vehicle equipped
13 with an ignition interlock device installed under the court order or
14 Department of Motor Vehicles order while the order is in effect or (b)
15 operates a motor vehicle which is not equipped with an ignition interlock
16 device in violation of the court order or Department of Motor Vehicles
17 order.

18 (2) Any person ordered by a court or the Department of Motor
19 Vehicles to operate only motor vehicles equipped with an ignition
20 interlock device is guilty of a Class IV felony if he or she (a)(i)
21 tampers with or circumvents and then operates a motor vehicle equipped
22 with an ignition interlock device installed under the court order or
23 Department of Motor Vehicles order while the order is in effect or (ii)
24 operates a motor vehicle which is not equipped with an ignition interlock
25 device in violation of the court order or Department of Motor Vehicles
26 order and (b) operates the motor vehicle as described in subdivision (a)
27 (i) or (ii) of this subsection when he or she has a concentration of two-
28 hundredths of one gram or more by weight of alcohol per one hundred
29 milliliters of his or her blood or a concentration of two-hundredths of
30 one gram or more by weight of alcohol per two hundred ten liters of his
31 or her breath.

1 (3) Any person who otherwise operates a motor vehicle equipped with
2 an ignition interlock device in violation of the requirements of the
3 court order or Department of Motor Vehicles order under which the device
4 was installed shall be guilty of a Class III misdemeanor.

5 (4) Any person who has applied for and received a 24/7 sobriety
6 program permit and operates a motor vehicle when he or she has a
7 concentration of two-hundredths of one gram or more by weight of alcohol
8 per one hundred milliliters of his or her blood or a concentration of
9 two-hundredths of one gram or more by weight of alcohol per two hundred
10 ten liters of his or her breath, or who refuses a chemical test, shall be
11 guilty of a Class IV felony.

12 Sec. 14. Original sections 29-901, 60-480, 60-498.01, 60-4,115,
13 60-6,197.05, 60-6,197.06, and 60-6,211.11, Revised Statutes Cumulative
14 Supplement, 2018, are repealed.