

SOBRIETY PROGRAM GUIDELINES

I. GENERAL PROVISIONS.

A. Policy Statement.

The 60th Legislative Assembly, in Section 11 of Senate Bill 2003, authorized the Attorney General to establish a sobriety program pilot project in one or more judicial districts of the state. The sobriety program will involve coordination among state, county, and municipal agencies. The Attorney General, in cooperation with law enforcement, the judiciary, the Department of Corrections and Rehabilitation, and the Department of Transportation Traffic Safety Division, is authorized to develop guidelines, policies and procedures, and to establish user fees for a sobriety program pilot project.

The 61st Legislative Assembly, in House Bill 1306, authorized the Attorney General to expand the twenty-four seven sobriety program to all judicial districts in the state. The sobriety program implements alternatives to incarceration for offenders charged with, or convicted of, driving under the influence of alcohol or controlled substances, domestic violence, abuse or neglect of a child, or other offenses in which alcohol or controlled substances are involved. The sobriety program includes twice-per-day breath alcohol testing, electronic monitoring, and drug testing. The courts may order an offender to participate in the program as a condition of bond or pre-trial release and may also order an offender to participate in the program as a condition of sentence or probation. The Department of Transportation, in cooperation with the sobriety program, may issue a temporary restricted driver's permit to eligible program participants to drive to and from testing sites. The North Dakota Parole Board may order a parolee to participate in the program as an intermediate sanction or condition of parole.

B. Definitions.

1. "Blood alcohol concentration" means the level of alcohol content of blood by weight.
2. "Breath test" means the collection of a breath sample to measure blood alcohol concentration.
3. "Court" means a district court or municipal court in the state of North Dakota.

4. "Drug patch" means an absorbent body perspiration collection patch used to detect the presence of controlled substances, including cocaine, marijuana, amphetamines, methamphetamine, phencyclidine, barbiturates, benzodiazepines, methadone, and opiates, including heroin, morphine, codeine, hydrocodone, and oxycodone.
5. "Offender" means a person charged or found guilty of a violation of N.D.C.C. § 39-08-01 or equivalent ordinance, domestic violence, abuse or neglect of a child, or other offenses in which alcohol or controlled substances are involved. The term "offender" includes offenders released on bond, pre-trial release, and pre-sentencing release, offenders who have pled guilty to or have been found guilty of, a qualifying offense, probationers subject to supervised or unsupervised probation, and parolees.
6. "Program" means the Attorney General's twenty-four seven sobriety program.
7. "Program administrator" means the representative of the Attorney General's office designated to oversee the twenty-four seven sobriety program.
8. "Prosecutor" means a state's attorney, assistant state's attorney, city attorney, or assistant city attorney in the state of North Dakota, and includes an assistant attorney general in the Office of Attorney General who is acting as a prosecutor.
9. "Qualifying offense" includes a violation of N.D.C.C. § 39-08-01 or equivalent ordinance, domestic violence, abuse or neglect of a child, or other offenses in which alcohol or controlled substances are involved.
10. "Remote electronic alcohol monitoring" means continuous alcohol monitoring through the use of an installed electronic bracelet capable of taking alcohol readings from an offender's skin to determine alcohol consumption twenty-four hours per day that may be monitored at another location by way of an analog telephone line or computer download.
11. "Testing site" means the facility, including a correctional facility or law enforcement agency, where sobriety breath testing and remote electronic alcohol monitoring will be conducted.
12. "Testing site officer" means a peace officer, correctional officer, or test-site operator designated by a sheriff or correctional facility

administrator to administer the twenty-four seven sobriety program, including conducting alcohol breath testing, drug patch and urinalysis testing, installing remote electronic alcohol monitoring equipment and collecting program fees from offenders, and entering offender information into a Sobriety Program Information System.

13. "Urinalysis testing" means urine specimen collection procedures to detect the presence of alcohol and controlled substances, including cocaine, marijuana, amphetamines, methamphetamine, phencyclidine, barbiturates, benzodiazepines, methadone, and opiates, including heroin, morphine, codeine, hydrocodone, and oxycodone.

C. Sobriety Testing as a Condition of Bond, Judicial Sentence, Probation, or Parole.

1. A court may order the offender to not consume any alcoholic beverages or controlled substances and participate in the twenty-four seven sobriety program as a condition of bond or other pre-trial release. Absent a waiver based on a finding of hardship, the court shall order the offender to pay all program fees.
2. If an offender has pled guilty to, or has been found guilty of, a qualifying offense, a court may order the offender not consume any alcoholic beverages or controlled substances to participate in the twenty-four seven sobriety program as a condition of pre-sentencing release or as a condition of the offender's sentence or probation. Absent a waiver based on a finding of hardship, the court shall order the offender to pay all program fees.
3. The Parole Board may order that a parolee not consume any alcoholic beverages or controlled substances and participate in the sobriety program as a condition of parole. Absent a waiver based on a finding of hardship, the Parole Board shall order the parolee to pay all program fees.

D. Statement of Participation.

1. An offender in the sobriety program pursuant to an order of the court shall execute a statement in the presence of the testing site officer or the clerk of the court, or if on supervised probation, in the presence of a parole and probation officer, acknowledging the terms and conditions of the referring court ordering the offender to participate in the sobriety program.

2. An offender in the sobriety program pursuant to an order of the Parole Board shall execute a statement in the presence of the testing site officer or a parole and probation officer acknowledging the terms and conditions of the Parole Board ordering the parolee to participate in the sobriety program.

E. Sobriety Program Information System.

1. At the time of intake, a testing site officer shall obtain necessary offender identification information and enter it into a Sobriety Program Information System. The information must include general participant information such as name, address, date of birth, and employment or school.
2. The testing site officer shall check the Sobriety Program Information System for the offender and complete the following:
 - a. If the offender's or parolee's name does not appear in the Sobriety Program Information System, the officer shall make a new entry, take a digital photograph of the offender or parolee, and download the picture into the computer file.
 - b. If the offender is listed in the Sobriety Program Information System, the testing site officer shall update the offender's file information, photograph the offender and download the photograph into the Sobriety Program Information System.
 - c. All information in the Sobriety Program Information System will be kept current and will be kept confidential when required by law.

F. Sobriety Program Fees.

1. Sobriety Program On-Site Testing Fees.

- a. Each offender participating in on-site breath testing shall pay one dollar (\$1.00) per test payable in advance on a weekly basis.

2. Remote Electronic Alcohol Monitoring Fees.

- a. Each offender participating in remote electronic alcohol monitoring shall pay a fee of five dollars (\$5.00) per day, payable in advance on a two-week basis. Each offender participating in electronic alcohol monitoring shall also pay an activation fee of twenty-five dollars (\$25.00) and a

deactivation fee of twenty-five dollars (\$25.00). The activation and deactivation fees must be paid at the time of installation.

3. Urine Analysis Testing Fees.

- a. Each offender participating in urinalysis testing shall pay a fee of five dollars (\$5.00) per test. If the offender has a positive urine test, the defendant shall pay twelve dollars and fifty cents (\$12.50) for laboratory confirmation of the urine sample.
- b. The duration of urinalysis testing will be determined by the court or the Parole Board. The time and location of the urine testing will be determined by the individual sheriff's offices.

4. Drug Patch Testing Fee.

- a. Each defendant participating in drug patch testing shall pay a fee of forty dollars (\$40.00) per drug patch test.
- b. The duration of the drug patch testing will be determined by the court or the Parole Board. The time and location of the drug patch testing will be determined by the individual sheriff's offices.

5. Method of Payment.

- a. Each offender shall pay testing fees in advance on a weekly basis. The offender shall pay the testing or monitoring fees in cash or money orders. No personal checks will be accepted. No test will be administered before payment is received. The officer shall provide a receipt to the offender for testing or monitoring fees paid and enter a record of the payment into the Sobriety Program Information System to track each offender's payments.
- b. If an offender has a positive balance upon completion or termination of the sobriety program, the offender will receive a refund for the balance.

6. Twenty-Four Seven Sobriety Program Funds.

- a. A criminal justice agency may collect program fees from offenders participating in the twenty-four seven sobriety program, including fees for twice-per-day breath testing,

urine testing, drug patch testing, installation and deactivation fees for remote electronic alcohol monitoring devices, and remote electronic monitoring daily fees.

- b. The program fees may only be applied to twenty-four seven sobriety program support services, equipment maintenance and replacement, and compliance with the program.
- c. The governing body shall pay daily fees collected for remote electronic monitoring to the Attorney General's twenty-four seven sobriety program fund.

7. Failure to Pay Program Fees.

- a. If an offender fails to pay for any program fees required under the sobriety program, the testing site officer shall report the offender's failure to pay program fees to the referring court, or to the Parole Board, if applicable. The offender may be taken into custody for violation of the sobriety program or an arrest warrant may be issued in the offender's absence.

8. Restitution for Lost or Damaged Equipment.

- a. Any amount owed by the offender as restitution for lost or damaged equipment related to twice-per-day testing, urine testing, or drug patch testing, will be assessed to the offender, to be paid into the governing body's twenty-four seven sobriety program fund.
- b. Any amount owed by the offender as restitution for lost or damaged equipment related to remote electronic monitoring equipment will be assessed to the offender, to be paid into the Attorney General's twenty-four seven sobriety program fund.
- c. If an offender fails to pay for any restitution, the testing site officer shall report the offender's failure to pay restitution to the referring court, or if the offender is a parolee or probationer, to the parolee or probationer's supervising parole and probation officer. The offender may be taken into custody or an arrest warrant may be issued in the offender's absence.

II. ON-SITE TESTING PROCEDURES.

A. Offender Placement in the Sobriety On-Site Breath Testing Program.

1. An offender charged with a qualifying offense is eligible for participation in an on-site sobriety testing program if a court has ordered the offender to participate in the program as a condition of bond or pre-trial release, as a condition of pre-sentencing release, or as a condition of the offender's sentence or probation. The Parole Board may also order an offender to participate in on-site sobriety testing.
2. When the court has ordered an offender to participate in on-site testing in the sobriety program as a condition of bond or pre-trial release, as a condition of pre-sentencing release, or as a condition of sentence or probation by the court, or the Parole Board has ordered an offender to participate in on-site testing, the offender shall report to the testing site designated by the court or the supervising parole and probation officer for admission to the program. The offender shall produce identification and a copy of the court order or Parole Board order authorizing the offender to participate in the sobriety program. At that time, a testing site officer shall review the program requirements, including fees and consequences of any violations, with the offender, and enter offender information into the Sobriety Program Information System.
3. If an offender has been ordered to participate in the program, but the offender is currently serving, or is required to serve, a sentence of imprisonment, the offender may not be placed into the program until the offender has completed the sentence.
4. An offender ordered to participate in the sobriety program shall execute a participation statement in the presence of the testing site officer, the clerk of court, or a parole and probation officer, to acknowledge the terms and conditions of the referring court or the Parole Board ordering the offender to participate in the program. The offender will receive a copy of the program requirements and the statement.
5. If the offender ordered to participate in the program as a condition of bond or other pre-trial release, pre-sentencing release, or as part of a sentence or unsupervised probation refuses to sign the sobriety program participation statement, the testing site officer shall return the offender to the referring or sentencing court to revoke, modify, or set other conditions of bond or pre-trial release,

pre-sentencing release, to revoke or modify, or set other conditions of sentence or probation.

6. If the offender refuses to sign the sobriety program participation statement and the offender is on supervised probation, the testing site officer shall refer the offender to the offender's supervising parole and probation officer. The parole and probation officer may request the court modify or revoke the offender's probation.
7. If the offender refuses to sign the sobriety program participation statement and the offender is a parolee, the testing site officer shall refer the offender to the offender's supervising parole and probation officer. The parole and probation officer may request the Parole Board modify or revoke the offender's parole.

B. Administration of Breath Tests.

1. All offenders in the sobriety program on-site breath testing program shall submit to a twice-daily breath test seven days per week. The tests will be given on time intervals of no longer or no less than 12 hours in between tests and will be at the same times each day. The testing site officer shall establish the actual test times for each offender.
2. The offender shall submit to the breath tests at the testing site designated by the court that has jurisdiction over the offender's offense, or if the offender is a probationer or parolee, at the site designated by the offender's supervising parole and probation officer.
3. An offender may not consume or ingest any substance, including alcohol in any form, mouthwash, toothpaste, medicine, or coffee, and may not use any tobacco products, including chewing tobacco, cigarettes, or cigars, within fifteen minutes before a breath test.
4. An offender shall arrive before the scheduled time for a breath test to ensure the test is administered at the correct time. If an offender arrives early, the offender shall wait until the offender's scheduled time for the breath test to be administered.
5. The testing site officer shall perform a breath test as follows:
 - a. Breath testing must be in accordance with the operating manual for the breath testing device.

- b. The officer shall record the test result and the time of the test in the Sobriety Program Information System.
6. If the breath test result indicates the presence of alcohol, the testing site officer shall have the offender wait for 15 minutes and administer another test.

C. Excused Absence.

1. The referring court may excuse an offender from a scheduled breath test. There must be a signed order from the court, or if the offender is on supervised parole or probation, there must be signed authorization from the offender's supervising parole and probation officer. The testing site officer may excuse an offender from a scheduled breath test based upon exigent circumstances, including inclement weather, emergencies, and legitimate health problems.
2. The testing site officer shall record the excused absence in the Sobriety Program Information System.
3. An offender will not be excused from a scheduled breath test because the offender failed to make appropriate travel arrangements.

D. Recording Test Results.

1. The testing site officer who administered the breath test shall record the result of the breath test in the Sobriety Program Information System.

E. Violations.

1. Positive Breath Test.

- a. A blood alcohol concentration of at least 0.007 by weight after a second breath test constitutes a violation of the twenty-four seven sobriety program. If there is a violation, the testing site officer shall detain the offender and notify the referring court and the prosecutor of the violation. If the testing site officer is not a licensed peace officer, the testing site officer shall also notify a law enforcement officer to take the offender into custody pending further court proceedings. If the offender is a probationer or parolee, the testing site officer shall notify the offender's supervising parole and probation officer.

- b. The testing site officer shall complete an incident report and forward a copy of the report to the prosecutor. If the offender is a probationer or parolee, the testing site officer shall send the incident report to the offender's supervising parole and probation officer.
- c. If an offender has a positive breath test and leaves the testing site before the offender can be detained, the testing site officer shall immediately notify another law enforcement officer, the prosecutor and the court. A bench warrant may be issued to take the offender back into custody. If the offender is a probationer or parolee, the testing site officer shall immediately notify the offender's supervising parole and probation officer.
- d. The testing site officer shall record the violation in the Sobriety Program Information System.

2. Failure to Appear for Scheduled Testing.

- a. If an offender fails to appear for a scheduled breath test, the site testing officer shall immediately notify the prosecutor and the court. A bench warrant may be issued to take the offender back into custody.
- b. If the offender is a probationer or parolee, the testing site officer shall immediately notify the offender's supervising parole and probation officer.
- c. The testing site officer shall record the failure to appear in the Sobriety Program Information System.

3. Late Arrival.

- a. If an offender arrives late for a scheduled breath test, the offender is in violation of the program and the testing site officer shall record the offender in the Sobriety Program Information System as a failure to appear.
- b. An offender who arrives late for testing may be taken into custody or a bench warrant may be issued.
- c. If an offender is on supervised parole or probation, the testing site officer shall notify the offender's supervising parole and probation officer of the violation for late arrival.

D. Standing Orders.

1. A court may issue a standing order establishing procedures for taking offenders into custody, for bench warrants, or for orders to show cause for offenders who have violated the sobriety program, including having a positive breath test, or failure to appear, or being late for on-site breath testing.

III. REMOTE ELECTRONIC ALCOHOL MONITORING.

A. Eligibility for Remote Electronic Alcohol Monitoring Includes:

1. The offender is charged with a qualifying offense and a court has ordered as a condition of bond, pre-trial release, pre-sentencing release, sentence or probation that the offender participate in the sobriety program. If the offender is a parolee, the Parole Board has ordered that the offender participate in the sobriety program as a condition of parole.
2. The offender lives in a rural area and it is an unreasonable burden, or it may be dangerous, for the offender to personally report to a law enforcement agency or detention facility for blood alcohol testing.
3. Based on prior contact with law enforcement or the courts or the Parole Board, the offender is known to be at high risk for consumption of alcohol.
4. The offender has a revoked or suspended license and does not have a temporary restricted driver's permit or lawful alternative transportation for on-site testing.
5. A remote electronic alcohol monitoring bracelet ("bracelet") and the supporting equipment, including a modem, are available.
6. The offender is capable of wearing a bracelet and paying the daily monitoring fees and activation and deactivation fees.

B. Remote Electronic Alcohol Monitoring Procedure.

1. The court shall advise the offender that as a condition of bond or other pre-trial release, pre-sentencing release, sentence, or probation, the offender shall be placed in the sobriety program and be issued a bracelet and supporting equipment. The court shall advise the offender of the remote electronic alcohol monitoring requirements. If the offender is a parolee, the Parole Board shall

advise the offender that as a condition of parole, the offender shall be placed in the sobriety program and be issued a bracelet and supporting equipment. The Parole Board shall advise the offender of the remote electronic alcohol monitoring requirements.

2. The court, or the Parole Board, if applicable, shall make a determination whether the offender is able to pay the monitoring and activation and deactivation fees.
3. The offender shall report to a law enforcement agency or detention facility. A testing site officer shall advise the offender of the remote electronic alcohol monitoring requirements, have the offender sign a statement acknowledging the remote electronic alcohol monitoring requirements, install the bracelet, provide a modem and any other equipment as necessary, and schedule times for remote electronic alcohol monitoring reporting.
4. The testing site officer shall advise the offender as to all remote electronic alcohol monitoring equipment replacement costs and the offender's responsibility for any damaged, lost, or destroyed remote electronic alcohol monitoring equipment.
5. The offender must be within the range of the remote electronic alcohol monitoring modem at scheduled reporting times.

C. Violations of Remote Electronic Alcohol Monitoring and Non-compliance Reporting.

1. Violations of the remote electronic alcohol monitoring surveillance program include positive alcohol detection and obstruction, tampering, damaging, or removal of the bracelet or the supporting equipment, or failure to be within the range of the remote electronic alcohol monitoring modem at scheduled reporting times.
2. The detection of a blood alcohol concentration at a level of at least .02 by weight or more constitutes positive alcohol detection in violation of the sobriety program requirements.
3. If the remote electronic alcohol monitoring test data cannot be communicated, the testing site officer who is monitoring the offender shall report the communication failure to a peace officer who will contact the offender and determine if there has been a violation. If the offender is a parolee or probationer, the testing site officer shall notify the supervising parole and probation officer who will contact the offender and determine if there has been a violation.

4. The testing site officer shall report all violations and communication failures to the court and the prosecutor, or if the offender is on supervised parole or probation, to the offender's supervising parole and probation officer. The testing site officer shall also enter the violation or communication failure into the Sobriety Program Information System.
5. If there has been a violation, the court may issue a bench warrant and order the offender be taken into custody. If the offender is on supervised parole or probation, the offender's supervising parole and probation officer shall make a determination whether to bring a petition for modification of the terms of supervision or for revocation of parole or probation.
6. The court may revoke or modify conditions of bond or pre-trial release, post-conviction release, sentence, or probation, upon hearing if there has been a violation, and may order the offender be taken into custody.
7. The Parole Board may revoke or modify conditions of parole if an offender violates conditions of remote electronic alcohol monitoring surveillance.

D. Removal of and Payment for Remote Electronic Alcohol Monitoring Bracelet and Supporting Equipment.

1. Only a law enforcement officer or a detention officer may remove the bracelet from an offender, and only:
 - a. When the program is complete
 - b. Upon order of the court
 - c. If the offender is taken into custody
 - d. If medically necessary
 - e. If the bracelet malfunctions
2. The offender shall return all remote electronic alcohol monitoring equipment at the time of removal of the bracelet, unless another bracelet is installed on the offender.
3. The offender shall be responsible for all costs, including replacement and repair of a damaged bracelet, modem or other supporting equipment. The court may impose a requirement that

all payments are court costs, and assess amounts due as court costs. The Parole Board may also order that the offender be responsible for all costs, including replacement and repair of a damaged bracelet, modem or other supporting equipment.

IV. URINALYSIS AND DRUG PATCH TESTING.

A. Urinalysis Testing.

1. Urinalysis testing may be at regular and random intervals.
2. If an offender has a positive sample, the testing site officer shall ask the offender whether the offender has used alcohol or controlled substances. If the offender admits using alcohol or controlled substances, the testing site officer shall request the offender sign a written admission.
3. If an offender's sample is positive for alcohol or a controlled substance, the offender is in violation of the program. If there is a violation, the testing site officer shall detain the offender and notify the referring court and the prosecutor of the violation. If the testing site officer is not a licensed peace officer, the testing site officer shall also notify a law enforcement officer to take the offender into custody pending further court proceedings. If the offender is a probationer or parolee, the testing site officer shall notify the offender's supervising parole and probation officer.
4. A positive sample may be sent to a laboratory for confirmation. If the offender admits to using alcohol or controlled substances and signs a written admission, it is not necessary to send the sample to a laboratory for confirmation.
5. If the offender defrauds the urine test, it is a violation of the program. If the offender defrauds the urine test, the testing site officer shall detain the offender and notify the referring court and the prosecutor of the violation. If the testing site officer is not a licensed peace officer, the testing site officer shall also notify a law enforcement officer to take the offender into custody pending further court proceedings. If the offender is a probationer or parolee, the testing site officer shall notify the offender's supervising parole and probation officer.
6. Defrauding a urine test may also result in criminal penalties under N.D.C.C. § 12.1-11-07 or revocation of probation, if applicable, under N.D.C.C. § 12.1-32-07(3).

7. A court may issue its own standing order establishing procedures for taking offenders into custody, for bench warrants, or for orders to show cause for offenders who have a positive urine test for alcohol or controlled substances pending laboratory confirmation.

B. Drug Patch Testing.

1. If an offender has been ordered to participate in the program by drug patch testing, the testing site officer shall place the drug patch on the offender in accordance with the manufacturer's instructions.
2. Only the testing site officer may remove the drug patch from the offender.
3. If the drug patch is positive for a controlled substance, the offender is in violation of the program.
4. If an offender is in violation of the program because of a positive drug patch, the testing site officer shall detain the offender and notify the referring court and the prosecutor of the violation. If the testing site officer is not a licensed peace officer, the testing site officer shall also notify a law enforcement officer to take the offender into custody pending further court proceedings. If the offender is a probationer or parolee, the testing site officer shall notify the offender's supervising parole and probation officer.
5. Used drug patches must be disposed of in accordance with the manufacturer's recommendations.
6. A court may issue its own standing order establishing procedures for taking offenders into custody, for bench warrants, or for orders to show cause for offenders who have a positive drug patch test for controlled substances pending laboratory confirmation.

V. COMPLETION AND TERMINATION FROM SOBRIETY COMPLIANCE PROGRAM.

A. Completion or Termination.

1. An offender's participation in the program ends upon completion of the program or termination of the program.
2. If the offender was in the program as a condition of bond or other pre-trial release, completion of the program means there has been a final disposition of the criminal offense, including acquittal or

conviction and imposition of sentence, or if the offender was on pre-sentencing release, imposition of sentence.

3. If the offender has been assigned to the program as a condition of sentence or probation, completion of the program means the offender has met the established time and conditions of the sentence or probation set by the court.
4. If the offender has been assigned to the program as a condition of parole, completion of the program means the offender has met the established time and conditions of the sentence or probation set by the Parole Board.
5. The testing site officer shall enter the offender's completion of the program or termination of the program into the Sobriety Program Information System upon notification from the court or the Parole Board that the offender has completed the program or has been terminated from the program.

B. Re-entry Into Program.

1. The court may authorize an offender to re-enter the program after the offender has violated the program in accordance with terms and conditions established by the court.
2. The Parole Board may authorize an offender to re-enter the program after the offender has violated the program in accordance with terms and conditions established by the Parole Board.

VI. OPERATOR QUALIFICATIONS, EQUIPMENT AND TESTING SITE MAINTENANCE.

A. Testing Site Officer Training.

Testing site officers must have undergone training on the use of the breath testing instruments to be used at the testing site. The testing site officers shall follow all operator requirements for preparing a breath testing instrument for a subject test and for conducting a test in accordance with the instrument manufacturer's specifications.

B. Calibration and Maintenance of Breath Testing Instruments.

Testing site officers shall perform regular accuracy and calibration checks of breath testing equipment in accordance with the instrument manufacturer's specifications. The testing site officers shall record all accuracy and calibration checks in a log book or in the Sobriety Program

Information System along with the date of the test and the expected result of the standard gas sample.

If a breath testing instrument fails to maintain its calibration in accordance with the manufacturer's specifications, the testing site officer may not use the breath testing instrument for further testing until after consulting with the manufacturer.

C. Use and Disposal of Mouthpieces.

Testing site officers may only use clean, unused mouthpieces (breathing tubes) from sealed bags and that have been manufactured or approved by the manufacturer of the breath testing instrument used for breath testing.

Testing site officers shall safely dispose of each used mouthpiece so that it may not be reused or create risk of transmission of disease.

VII. RECORD KEEPING, ACCOUNTING FOR TESTING FEES, AND SOBRIETY PROGRAM INFORMATION SYSTEM.

A. Sobriety Program Information System.

1. Testing Site and Data Entry Personnel.

a. All site operators or data entry personnel (referred to here as "system users") who will be entering offender information and data into the Sobriety Program Information System must have a password to access the system. The sheriff of each county shall designate the system users who will need passwords to access the Sobriety Program Information System. The system users will include sheriff's deputies, correctional officers, office deputies, or other authorized personnel.

b. Each authorized system user shall complete a set of security challenge questions and send the completed questions to the Attorney General's Information Technology Staff ("IT Staff") for password administration (in case a password is forgotten). This can be accomplished two ways:

- (1) If the system user has an e-mail account: Go to web page;
<https://secure.intranetapps.nd.gov/itd/passwordchg/emailenty.htm>;

- (2) If the system user does not have an e-mail account:
Get a printable PDF form which can be faxed or mailed to Attorney General IT Staff.
<http://www.state.nd.us/itd/security/docs/52378.pdf>

2. New, Removed, or Changed Password.

The application will check each time a system user logs on to determine whether the system user needs to change a password (e.g., first-time logins and when the password expiration date nears).

If the system user needs to change the password, the system user will be redirected to:

<https://www.state.nd.us/itd/misc/pswd/changepassword.asp>. The system user will enter the new password at this location. The system user will then have to go back to the Sobriety Program Information System site and log in again.

3. Locked Out Accounts or Forgotten Passwords.

The system user or sheriff will call the Attorney General IT Staff's Help Desk (701-328-5556) to assist with unlocking an account or help with a password.

4. Password Security.

Only authorized Attorney General IT Staff and authorized system users may access the Sobriety Program Information System. System users are prohibited from allowing any other person to use the system user's password to access the Sobriety Program Information System.

5. Administration.

Attorney General IT Staff are responsible for the administration of the Sobriety Program Information System. Only authorized IT Staff may make any changes in the Sobriety Program Information System.

B. Finance and Accounting.

1. Initial Forms, Testing Fees, Collections, and Pre-Payment.

- a. The fees paid by offenders must be by cash or money order.

- b. The testing site officers shall collect one dollar (\$1.00) per test, or two dollars (\$2.00) per day, from each offender subject to twice-per-day breath testing. Each offender shall pay the twice-per-day testing fee seven days in advance, or a total of fourteen dollars (\$14.00) per seven-day period.
- c. Offenders who are participating in remote electronic alcohol monitoring shall pay five dollars (\$5.00) per day for daily monitoring and twenty-five dollars (\$25.00) for activation and twenty-five dollars (\$25.00) for deactivation.
- d. Offenders shall pay for remote electronic alcohol monitoring fees, including the activation and deactivation fees, in advance for two weeks, for a total of one hundred twenty dollars (\$120.00).
- e. Offenders who are participating in urinalysis testing shall submit to testing upon request, and shall pay five dollars (\$5.00) per test. If an offender has a positive urine field test, the offender shall pay twelve dollars and fifty cents (\$12.50) for laboratory confirmation of the urine sample.
- f. Offenders who are participating in drug patch testing shall submit to testing upon request, and shall pay forty dollars (\$40.00) per test.
- g. In the event an offender violates any requirements of the program or the offender's bond is revoked, the amount the offender has paid, including any unused balance, for twice-daily breath testing or remote electronic alcohol monitoring is non-refundable.
- h. Fees for remote electronic alcohol monitoring, urine analysis, and drug patch testing may be subject to change as a result of vendor price changes. In the event of a price change, all testing sites will be notified to the extent possible in advance of the price change.

2. Account Reconciliation.

- a. Each entity participating in the program shall establish a separate account to deposit the collected fees from the sobriety program. Deposits to this fund should be made on a daily basis to ensure the accountability of funds.

- b. Each entity shall retain all fees until the end of each month. All fees will be retained by the testing entity, except the daily monitoring fees for remote electronic alcohol monitoring. The entity collecting the fees shall forward daily monitoring fees for the electronic alcohol monitoring bracelets to the Office of Attorney General for deposit in the Attorney General's twenty-four seven sobriety program fund.
- c. The amount of payment submitted should match the Accounting Detail Report. If a court has waived any fees, the waiver must be reflected on the Accounting Detail Report.
- d. Each entity in the sobriety program shall indicate a contact person to the North Dakota Attorney General's financial office.
- e. By the second week of each successive month, each entity shall submit its individual forms, and a check for the daily fees associated with remote electronic alcohol monitoring to the Office of Attorney General, 600 East Boulevard Avenue, Dept. 125, Bismarck, ND 58505-0040, Attn: Finance/Sobriety Program.
- f. Contact Michelle Metzger (328-4213), Deb Matzke (328-4295) or Kathy Roll (328-3622) with any questions related to accounting and finance policies and procedures.