



City of Helena

EXHIBIT 6
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HB 233

Municipal Court
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Re: HB 233

Members of the Committee:

I am sorry I cannot be with you in person. We have several trial conflicts.

The Helena Municipal Court was one of the first to adopt and use the 24/7 testing program. We had the support of the Helena Police Department, the Sheriff's office and the staff of the Detention facility. I am a fan. We have expanded to the program to provide for daily testing for other offenses where alcohol was a factor. Experience shows it often is.

The program is not a cure-all for the issues we face. It has been a success in keeping offenders off alcohol for a period long enough for them to consider some constructive options. The 24/7 Sobriety Program provides an effective way to hold DUI offenders accountable. If they decide to drink, they very quickly find themselves looking at me again and spending jail time. The sobriety success rate for people being tested is very high... in excess of 99%. We have used both pretrial and post-conviction testing with notable success.

I support the concept of trying to help our defendants stay clean and sober as best we can. The results are sometimes remarkable. Folks come back in better health and with a better attitude about themselves.

The bill you have before you is an expansion of those concepts. I cannot estimate the effect drug testing will have nor the complexity of the process. We can only hope as judges to help some of the people we see. I hope you will consider providing tools to help us do that.

Judge Bob Wood
Helena Municipal Court

HB 233 – 24/7 Program Expansion Q&A

What is the 24/7 Sobriety Program?

The 24/7 Sobriety Program is a program designed to maintain sobriety for repeat DUI offenders while they are free on bond or under the jurisdiction of the court. The underlying premise of the Program is that in order to affect behavioral change an immediate consequence should be imposed as soon after a violation has occurred as possible. The 24/7 Program is a drug and an alcohol monitoring program. It requires a Program participant to submit to a breath alcohol test at a centralized location twice per day, approximately 12 hours apart. The participant – not the county – is responsible for the cost of the test (\$2 per test, \$4 per day). If the Participant tests clean, he can go about a normal day and go to work, be with his family, etc. If the Participant fails to submit to the test or fails the test because of the presence of alcohol, his bond is immediately revoked and he or she is taken directly to jail and waits to see a judge. The judge decides how long an offender spends in jail. This is the 24/7 Sobriety Program in its pure form, but the Program allows flexibility in the testing methodologies including transdermal alcohol monitoring bracelets to be used in the cases of hardship.

For offenders that have demonstrated abuse of an illicit or prescription drug, the 24/7 program also has a component that monitors for abstinence from the use of these substances through scheduled urine analysis and drug patch testing.

What does the bill do?

The bill builds on the statutory framework enacted last session providing authority for the Department of Justice to work with counties to create a statewide 24/7 Sobriety Program. HB 233 further defines the 24/7 Program by identifying its core components and a process for analyzing alterations to the core components to ensure the integrity and effectiveness of the program. HB 233 also allows for extending the application of the program from second and subsequent DUIs to any other crime in which the abuse of alcohol or drugs was a contributing factor in the commission of the crime. Judicial discretion and the individual circumstance of the offender will determine when the 24/7 program is used for a particular crime. In South Dakota, for example, the courts have seen success in applying the 24/7 program to domestic violence offenses.

Why do we need this Program?

Montana leads or is near the top in all of the national DUI categories. Montana ranked highest in the nation for the number of alcohol-related fatalities per 100 million miles traveled. Montana is first in the nation for the number of alcohol-related deaths per 100,000 people (13.9). Montana is third in the nation for the percentage of traffic fatalities that are alcohol related (nearly 40%). Clearly, what Montana is currently doing to combat DUIs is not working.

How much will this cost the State and local governments?

Nothing. The 24/7 Sobriety Program is an offender-pay program. With enough participants on the program, it will eventually be a revenue generating program. 24/7 also has the potential to save state and local governments money typically spent on incarceration – it costs over \$70 per inmate, per day in Montana.

Does the 24/7 Program work?

Yes. The statewide program was implemented on October 1, 2011, and is still in the process of rolling the program out across the state. From October 1, 2011 to December 31, 2012, 157,196 breath tests were administered with a pass rate of 99.7%. When no-shows were factored in with "hot" tests, the pass rate is 97.8%. SCRAM results are similar with more than 2.5 million SCRAM readings taken and only 54 confirmed alcohol events and 239 tampering events. We look to South Dakota which was the first state to implement the 24/7 program for further indicators of success, and analyses by the South Dakota Attorney General's Office find that offenders placed at least 30 consecutive days on 24/7 are over 50% less likely to commit another DUI offense.

Does it apply only to DUIs?

No, one of the main components of HB 233 is that it extends application of the 24/7 Program to other crimes in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime. Similar to the route South Dakota has taken, we believe that under this bill a judge can exercise judicial discretion to extend the 24/7 Sobriety Program to any crime that has a nexus to drug and/or alcohol abuse, such as partner or family member assault. The Program can also be used to monitor sobriety for parolees, and it may eventually help reduce jail and prison populations by releasing nonviolent offenders and monitoring them on the Program.

What incentives are there for Program Participation?

HB 233 allows a probationary drivers license for Program participants. The Program also keeps participants out of jail so they are able to maintain employment and remain with their families. There may also options for "step down" incentives for compliance such as once a day testing or twice a day testing only Friday through Monday.

Why do we need legislation? Can't counties already do this?

Legislation is needed to offer clarity and consistency in the Program. Perhaps more importantly, a statewide Program allows participants to go to multiple sites to comply with the testing protocols (e.g., someone who lives in the Flathead can also maintain Program compliance while they work in Sidney). If the Program parameters are defined in statutes and coordinated with sentencing statutes, it allows the Program to be used consistently across the State. Clarity and consistency in the statewide program offers the ability to manage and report the data associated with the Program so we know whether it is working or changes are needed.