



# WASHINGTON STATE 24/7 SOBRIETY PROGRAM

## **GUIDELINES FOR PARTICIPATING AGENCIES**

The 24/7 sobriety program is a twenty-four hour, seven day a week sobriety program in which a participant submits to the testing of their blood, breath, urine, or other bodily substances in order to determine the presence of alcohol, marijuana, or any controlled substance in their body.

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## GENERAL PROVISIONS

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### A. GUIDELINES STATEMENT

[RCW 36.28A.300](#) through 390, created a 24/7 sobriety program to be administered by the Washington Criminal Justice Training Commission (CJTC) in conjunction with the Washington Association of Sheriffs and Police Chiefs (WASPC). WASPC is to coordinate efforts among various local government entities for the purpose of implementing alternatives to incarceration for participants convicted under [RCW 46.61.502](#) or [46.61.504](#) with one or more prior convictions under [RCW 46.61.502](#) or [46.61.504](#).

The 24/7 sobriety program implements alternatives to incarceration for participants charged with, arrested for, or convicted of, repeat offenses and participants convicted of first offense of driving under the influence of alcohol, marijuana, or controlled substances as defined in [RCW 46.61.5055](#). Independent studies of other states and jurisdictions note that those agencies that adopt the core components of the program, which include swift and sure offender sanctions, are changing the criminal justice system wherever they have been implemented. Hallmarks of the 24/7 sobriety program include:

- Cost efficiency
- Reduction of jail and prison populations
- Enhancement of public safety, and
- Enabling more offenders to change self-defeating behaviors and stop re-offending

24/7 programs may

- Emphasize offender accountability and reduce recidivism
  - Reduce law enforcement call outs
  - Reduce Court Docket
- Improve public safety within communities
- Support Target ZERO teams, DUI courts and drug courts
- Save criminal justice dollars and tax dollars by using defender-pay models and by reducing jail and prison populations

The 24/7 sobriety program includes twice-per-day, on-site breath alcohol testing; remote electronic alcohol monitoring; and drug testing. The courts are given the discretion to order a participant to participate in the 24/7 sobriety program as a condition of bond or pre-trial release and may also order a participant to participate in the program as a condition of sentence or probation.

WASPC provides coordination among state, county, and municipal agencies. WASPC is authorized to develop policies and procedures (guidelines), and establish fees for the 24/7 sobriety program. These guidelines are meant to assist courts, law enforcement agencies, prosecutors, probation, city and county officials, and other entities, in the administration of the 24/7 sobriety program. The guidelines, and participants' participation in the program, are subject to the orders of the Courts and the requirements of WASPC under [Title 36.28A](#) of the Revised Code of Washington (RCW).

**None of the information provided in this document should be considered legal advice. Please consult your legal advisor for legal advice.**

## B. 24/7 SOBRIETY PROGRAM STATUTES

### **RCW 36.28A.300**

#### **24/7 sobriety program.**

There is created a 24/7 sobriety program to be administered by the Washington Traffic Safety Commission in conjunction with the Washington Association of Sheriffs and Police Chiefs. The program shall coordinate efforts among various local government entities for the purpose of implementing alternatives to incarceration for offenders convicted under [RCW 46.61.502](#) or [46.61.504](#) with one or more prior convictions under [RCW 46.61.502](#) or [46.61.504](#).

### **RCW 36.28A.320**

#### **24/7 sobriety account.**

There is hereby established in the custody of the state treasurer the 24/7 sobriety account. The account shall be maintained and administered by the Criminal Justice Training Commission to reimburse the state for costs associated with establishing and operating the 24/7 sobriety program and the Washington Association of Sheriffs and Police Chiefs for ongoing program administration costs. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW. Funds in the account may not lapse and must carry forward from biennium to biennium. Interest earned by the account must be retained in the account. The criminal justice training commission may accept for deposit in the account money from donations, gifts, grants, participation fees, and user fees or payments.

### **RCW 36.28A.330**

#### **24/7 sobriety program definitions.**

The definitions in this section apply throughout [RCW 36.28A.300](#) through 36.28A.390 unless the context clearly requires otherwise.

1. "24/7 sobriety program" means a program in which a participant submits to testing of the participant's blood, breath, urine, or other bodily substance to determine the presence of alcohol or any drug as defined in [RCW 46.61.540](#). Testing must take place at a location or locations designated by the participating agency, or, with the concurrence of the Washington Association of Sheriffs and Police Chiefs, by an alternate method.
2. "Participant" means a person who has been charged with or convicted of a violation of [RCW 46.61.502](#) or [46.61.504](#) or those crimes listed in [RCW 46.61.5055 \(14\)](#), in which the use of alcohol or drugs as defined in [RCW 46.61.540](#) was a contributing factor in the commission of the crime and who has been ordered by a court to participate in the 24/7 sobriety program.
3. "Participating agency" means any entity located in the state of Washington that has a written agreement with the Washington Association of Sheriffs and Police Chiefs to participate in the 24/7 sobriety program, and includes, but is not limited to, a sheriff, a police chief, any other local, regional, or state corrections or probation entity, and any other entity designated by a sheriff, police chief, or any other local, regional, or state corrections or probation entity to perform testing in the 24/7 sobriety program.

4. "Participation agreement" means a written document executed by a participant agreeing to participate in the 24/7 sobriety program in a form that contains the following information:
  - a. The type, frequency, and time period of testing;
  - b. The location of testing;
  - c. The fees and payment procedures required for testing; and
  - d. The responsibilities and obligations of the participant under the 24/7 sobriety program.

**RCW 36.28A.340****24/7 sobriety program — Counties or cities may participate.**

Each county or city, through its sheriff or chief, may participate in the 24/7 sobriety program. If a sheriff or chief is unwilling or unable to participate in the 24/7 sobriety program, the sheriff or chief may designate an entity willing to provide the service.

**RCW 36.28A.350****24/7 sobriety program — Bond or pretrial release.**

The court may condition any bond or pretrial release upon participation in the 24/7 sobriety program and payment of associated costs and expenses, if available.

**RCW 36.28A.360****24/7 sobriety program — Washington Association of Sheriffs and Police Chiefs may adopt policies and procedures.**

The Washington Association of Sheriffs and Police Chiefs may adopt policies and procedures for the administration of the 24/7 sobriety program to:

1. Provide for procedures and apparatus for testing;
2. Establish fees and costs for participation in the program to be paid by the participants;
3. Require the submission of reports and information by law enforcement agencies within this state.

**RCW 36.28A.370****24/7 sobriety account — Distribution of funds.**

1. Any daily user fee, installation fee, deactivation fee, enrollment fee, or monitoring fee must be collected by the participating agency and used to defray the participating agency's costs of the 24/7 sobriety program.
2. Any participation fee must be collected by the participating agency and deposited in the state 24/7 sobriety account to cover program administration costs incurred by the Washington Association of Sheriffs and Police Chiefs.
3. All applicable fees shall be paid by the participant contemporaneously or in advance of the time when the fee becomes due; however, cities and counties may subsidize or pay any applicable fees.

4. A city or county may accept for deposit, donations, gifts, grants, local account fund transfers, and other assistance into its local 24/7 sobriety account to defray the participating agency's costs of the 24/7 sobriety program.

**RCW 36.28A.380****24/7 sobriety program — No waiver or reduction of fees.**

The court shall not waive or reduce fees or associated costs charged for participation in the 24/7 sobriety program.

**RCW 36.28A.390****24/7 sobriety program — Violation of terms — Penalties.**

1. A general authority Washington peace officer, as defined in [RCW 10.93.020](#), who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program may immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.
2. A participant who violates the terms of participation in the 24/7 sobriety program or does not pay the required fees or associated costs pretrial or post-trial shall, at a minimum:
  - a) Receive a written warning notice for a first violation;
  - b) Serve a minimum of one day imprisonment for a second violation;
  - c) Serve a minimum of three days imprisonment for a third violation;
  - d) Serve a minimum of five days imprisonment for a fourth violation; and
  - e) Serve a minimum of seven days imprisonment for a fifth or subsequent violation.
3. The court may remove a participant from the 24/7 sobriety program at any time for noncompliance with the terms of participation. If a participant is removed from the 24/7 sobriety program, the court shall send written notice to the department of licensing within five business days.

**C. DEFINITIONS**

1. "Alcohol concentration" means the alcohol content of blood, breath, or urine by weight.
2. "Breath test" means the collection of a breath sample to measure breath alcohol concentration.
3. "Court" means a superior court, district court, municipal court, or juvenile court in the state of Washington.
4. "Daily user fee" means the fee a participant pays daily for actively testing in the 24/7 sobriety program. This fee is collected by the participating agency to defray their costs for administering the program.

5. “Data management system” means a data management software program provided by WASPC that is designed to manage testing, participant enrollment information, data access, fees and fee payments, financial accounting, and any required reports.
6. “Deactivation fee” means the fee collected from a participant for removing, deactivating, and logging the removal of a transdermal alcohol testing device. This fee is collected by the participating agency and used to defray administrative costs of the local testing entity.
7. “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.
8. “Enrollment fee” means the fee collected from a participant to enroll/begin 24/7 sobriety testing. This fee is collected by the participating agency and used to defray administrative costs of the local testing entity.
9. “Monitoring fee” means the fee collected from a participant who is being monitored for alcohol use from a remote alcohol testing apparatus or vendor contracted by a participating agency. This fee is collected by the participating agency to defray the costs of alcohol testing equipment or to pay contracted vendors for alcohol testing services.
10. “Participant” (“Offender”) means a person who has been ordered by a court to participate in the 24/7 sobriety program. The term “participant” includes individuals released on bond, personal recognizance, pre-trial release, pre-sentencing release, pled guilty to or have been found guilty of, qualifying offense, probationers subject to supervised or unsupervised probation, and parolees. Where the context of these guidelines requires, the term participant includes juveniles.
11. “Participation Agreement” means a written document executed by a participant agreeing to participate in the 24/7 sobriety program in a form that contains the following information;
  - a. The type, frequency, and time period of testing;
  - b. The location of testing;
  - c. The fees and payment procedures required for testing; and
  - d. The responsibilities and obligations of the participant under the 24/7 sobriety program.
12. “Program” means the 24/7 sobriety program codified in [RCW 36.28A.300](#) through 390 and administered by the Criminal Justice Training Commission in conjunction with the Washington Association of Sheriffs and Police Chiefs. The program shall coordinate efforts among various local government entities for the purpose of implementing alternatives to incarceration for offenders convicted under [RCW 46.61.502](#) or [46.61.504](#) with one or more prior convictions under [RCW 46.61.502](#) or [46.61.504](#).
13. “Participating agency” means any entity located in the state of Washington that has a written agreement with the Washington Association of Sheriffs and Police Chiefs to participate in the 24/7 sobriety program, and includes, but is not limited to, a sheriff, a

police chief, any other local, regional, or state corrections or probation entity, and any other entity designated by a sheriff, police chief, or any other local, regional, or state corrections or probation entity to perform testing in the 24/7 sobriety program.

14. "Participation fee" means that daily fee collected by a participating agency that is deposited into the state 24/7 sobriety account to cover 24/7 sobriety program administration costs incurred by WASPC. This fee is used to pay for the software used in the 24/7 sobriety program testing process.
15. "Participating vendor" means a vendor that meets the 24/7 sobriety program criteria to provide equipment or services to implement and operate the 24/7 sobriety program as a designee of a sheriff or chief.
16. Preliminary breath test (PBT) instruments are approved for use in the state of Washington as breath alcohol screening devices, subject to the requirements of RCW [46.61.506](#) and Chapter [448-15 WAC](#) (ADMINISTRATION OF BREATH ALCOHOL SCREENING TEST). Approved PBT instruments for the state of Washington are:
  - Alco sensor III (Intoximeters, St. Louis, MO.)
  - Alco sensor FST (Intoximeters, St. Louis, MO.)
17. "Program administrator" means the representative of the WASPC's staff designated to oversee the 24/7 sobriety program.
18. "Saliva drug test" means a mouth swab drug test used to examine the saliva from the mouth of a participant for the presence of certain types of narcotics. Mouth swab drug test facts indicate that the test can be used to test for usage of drugs such as cocaine, marijuana, opiates, methadone, phencyclidine, benzodiazepines, amphetamines, and methamphetamines.
19. "Prosecutor" means a county attorney, assistant county attorney, city attorney, or assistant city attorney in the state of Washington, and includes an assistant attorney general in the Office of Attorney General who is acting as a prosecutor.
20. "Qualifying offense" includes a violation of RCW [46.61.502](#) or 504, [46.61.5055 \(14\)](#) or equivalent ordinance, in which alcohol or controlled substances are involved.
21. "Remote alcohol screening test device" means a device designed to detect and verify the presence of alcohol or provide an estimated value of alcohol concentration and approved by the National Highway Traffic Safety Administration (NHTSA), (2) continuous alcohol monitoring through the use of an installed electronic bracelet capable of taking alcohol readings from a participant's skin at least once per hour to determine alcohol consumption twenty-four hours per day that may be monitored at another location by way of an analog telephone line, electronic digital transmission, or computer download or (3) wireless portable device that is capable of taking a breath alcohol sample, automated facial recognition through video or digital photos, and GPS readings and transmitting the data over the cellular network to a test monitor center, law enforcement agency, court, or probation.



22. “Immediately” refers to the legal definition meaning at once or as soon as can be done, without excuse.<sup>1</sup>
23. “Repeat offender” means an individual who has been charged with, or convicted of, a second or subsequent violation of RCW [46.61.502](#) - 504 or equivalent ordinance in the seven years prior to the offender’s most recent offense, or an individual who has been charged with a fourth or subsequent violation of RCW [46.61.502](#) - 504 or equivalent ordinance within the prior 10 years.
24. “System user” means a peace officer, correctional officer, test-site operator, or other testing site personnel designated by a law enforcement agency or correctional facility administrator to enter or extract information into/from the Sobriety Program Information System.
25. “Test Fee” means the fee charged for each individual PBT test used in twice daily testing.
26. “Testing site” means the facility, including a Sheriff’s department, Police department, correctional facility or location designated by a Sheriff or Chief, where the 24/7 sobriety program will be administered, which may include on-site breath testing, drug patch and urinalysis testing, installation of remote electronic alcohol monitoring equipment, collection of program fees from participants, and to enter participant information into the Sobriety Program Information System.
27. “Testing site officer” means a peace officer, correctional officer, test-site operator, or supervisor designated by a Sheriff, or Chief, to administer the 24/7 sobriety program, which may include conducting twice-per-day alcohol breath testing, drug patch and urinalysis testing, activating, deactivating, downloading data from remote electronic alcohol monitoring equipment, collecting program fees from participants, and entering participant information into the Sobriety Program Information System.
28. “Test site supervisor” means an individual assigned to oversee, manage, and supervise test site activities. These activities may include but are not limited to: supervision, scheduling, budgets, conducting financial audits, maintaining, coordinating, and completing daily tasks in the local 24/7 sobriety program database.
29. “Urinalysis testing” means urine specimen collection procedures to detect the presence of alcohol and controlled substances, including drugs such as: cocaine, marijuana, amphetamines, methamphetamine, phencyclidine, barbiturates, benzodiazepines, methadone, and opiates, including heroin, morphine, codeine, hydrocodone, and oxycodone.

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<sup>1</sup>Hill, G. N., & Hill, K. (2002). *The people's law dictionary: Taking the mystery out of legal language*. New York, NY: MJF Books.

#### D. TESTING SITE

1. The Sheriff, Chief, or designated entity in each county or city shall designate a 24/7 sobriety program testing site, or sites, to conduct twice-per-day alcohol breath testing, drug patch and urinalysis testing, activating, deactivating, downloading data from remote electronic alcohol monitoring equipment, the collection of program fees from participants in the 24/7 sobriety program, and to enter participant information into the Sobriety Program Information System.
2. The testing site shall refer to [RCW 13.40.040](#) regarding juvenile participants who are enrolled in the 24/7 sobriety program (i.e. entering a secured facility, entering a secure part of a facility, and/or detainment).

#### E. 24/7 SOBRIETY TESTING AS A CONDITION OF BOND OR PRE-TRIAL RELEASE

1. The courts, in their discretion, may require a participant to refrain from the use of alcohol and impose a condition of alcohol testing in a bond order or as a condition of bond or pre-trial release, not only to assure the participant's attendance at scheduled court appearances, but to further public safety by seeking to prevent the commission of offenses that are similar to the charged offense.
2. The court may require the participant to participate in the 24/7 sobriety program for any length of time up to case adjudication.

#### F. 24/7 SOBRIETY TESTING AS A CONDITION OF POST-CONVICTION RELEASE

1. If an offender has pleaded guilty to, or has been found guilty of, a qualifying offense, a court may order the offender not to consume any alcoholic beverages or controlled substances and to participate in the 24/7 sobriety program as a condition of the offender's sentence or probation for a minimum of six months.

#### G. 24/7 SOBRIETY TESTING IN LIEU OF LICENSE SUSPENSION, IGNITION INTERLOCK AND/OR INCARCERATION

1. The following RCWs authorize the 24/7 Sobriety Program to be used in lieu of license suspension, ignition interlock and/or incarceration in certain situations. Please refer directly to the RCWs for additional information.
  - [RCW 10.21.055](#)—Ignition Interlock
  - [RCW 46.61.5055](#)—Imprisonment
  - [RCW 46.61.5055](#)—License Suspension

#### H. STATEMENT OF PARTICIPATION

1. A participant in the 24/7 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

and agreeing to the terms and conditions of the referring court ordering the participant to participate in the sobriety program.

2. If a juvenile is participating in the 24/7 sobriety program pursuant to an order of the Juvenile Court, the juvenile participant, and the juvenile participant's parent(s), legal guardian, or legal custodian, shall execute a statement in the presence of a testing site officer acknowledging and agreeing to the terms and conditions of the Juvenile Court ordering the juvenile participant to participate in the sobriety program.

## I. SOBRIETY PROGRAM INFORMATION SYSTEM

1. At the time of enrollment, the enrollment officer shall check the Sobriety Program Information System for the participant and complete the following:
  - a. If the participant's name does not appear in the Sobriety Program Information System, the testing site officer shall:
    - make a new entry, take a digital photograph of the participant, and download the picture;
    - retain a copy of the court order, and signed participant agreement;
    - obtain necessary participant identification information from photo identification such as a passport, driver license, or photo identification card;
    - enrollment information must include the court case number, general participant demographics including, but not limited to, the participant's name, address, date of birth, social security number, employment or school contacts, and home/mobile phone numbers;
    - The social security number must be kept confidential pursuant to [RCW 26.23.150](#).
  - b. If the participant is listed in the Sobriety Program Information System, and the participant is back in the 24/7 sobriety program for the same case, the testing site officer shall update the participant's file information, photograph the participant and download the photograph into the Sobriety Program Information System. A copy of the court order should be retained.
  - c. Anytime a previous participant re-enters the 24/7 sobriety program for a new case, the testing site shall make a new entry, take a digital photograph of the participant, and download the picture. Copies of the court order and participant agreement should be retained. The participant will be charged a new thirty dollar (\$30.00) enrollment fee.
  - d. All information in the Sobriety Program Information System will be kept current and will be kept confidential as required by law. This is not an exemption to the Public Records Act, [42.65](#).

## J. SOBRIETY PROGRAM TESTING FEES

1. Enrollment

- a. Each participant enrolled in the 24/7 Sobriety Program will pay a thirty (\$30.00) enrollment fee for each new case they are involved with. The enrollment fee will be deposited in the local 24/7 sobriety account and/or kept by the third party vendor for their services.
2. On-Site Portable Breath Test (PBT) Fees.
  - a. Each participant assigned to on-site breath testing shall pay two dollars (\$2.00) per test, (\$1.00) test fee, (\$.50) user fee and (\$.50) participation fee. The One dollar (\$1.00) test fee and (\$.50) user fee will be deposited in the local 24/7 sobriety account and/or to pay for third party vendor services and the fifty cent (\$.50) participation fee will be deposited in the state 24/7 sobriety account. The fee is payable contemporaneously or in advance on a weekly or monthly basis, or in accordance with a schedule established at the testing site. This does not preclude the participant from paying in advance for a period of time more than one month.
3. Remote Electronic Alcohol Monitoring User and Participation Fee.
  - a. Each participant assigned to remote electronic alcohol monitoring, i.e. remote breath device, transdermal device, shall pay;
    - No more than \$12.00 per day for a remote breath testing device. \$.50 per day of the \$12.00 per day fee would go to the state 24/7 account and the remainder of the per day fee would go into the local 24/7 sobriety account and/or third party vendor to pay for testing device rental/lease/purchase, monitoring, and administrative costs.
    - No more than \$15.00 per day for a transdermal device (ankle bracelet) and a \$30.00 de-activation fee when the program is completed. The \$30.00 de-activation fee would be deposited into the local 24/7 sobriety account and/or go to the third party vendor. \$.50 per day of the \$15.00 per day fee would go to the state 24/7 account and the remainder of the per day fee would go into the local 24/7 sobriety account and/or go to the third party vendor to pay for testing device rental/lease/purchase, monitoring, and administrative costs.
4. Urinalysis/Saliva/Drug Patch Fees.
  - a. \$10.00 per test for urinalysis or saliva plus the charge of laboratory confirmation on a positive screening test. \$.50 per test would go to the state account. \$9.50 per test would be deposited into the local 24/7 sobriety account and/or go to the third party vendor to pay for drug kits and administrative costs.
  - b. \$50.00 per patch/week for drug patch testing. \$.50 per patch would go to the state 24/7 account. \$49.50 per patch would go to the local 24/7 sobriety account and/or third party vendor to pay for the drug patch and administrative costs.
  - c. The duration of urinalysis/saliva/drug patch testing will be determined by the court. The time and location of the urine/saliva testing will be determined by the individual 24/7 sobriety testing center.
5. Juvenile User and Participation Fees.

- a. The same fees applicable to adult participants are applicable to juveniles ordered by the Juvenile Court to participate in the 24/7 sobriety program.
6. Warrant/Incarceration Fees.
    - a. Participants that violate the 24/7 Sobriety Program may be subject to warrant service and incarceration fees. Warrant service and/or incarceration fees will be assessed by the court and deposited in the local 24/7 Sobriety Account.
7. Method of Payment.
    - a. Each participant shall pay testing fees contemporaneously or in advance. This does not preclude the participant from paying in advance for a longer period of time. The participant shall pay the testing or monitoring fees in cash, cashier check, money orders, or electronically if the participating agency accepts these transactions. No personal checks will be accepted. No test will be administered before payment is received and participants will not be allowed to test if there is no money in their account. If a participant shows up to test and there is no money in their account nor do they have money to pay the test fee the testing officer will record the event in the sobriety information system as a “no show” and notify the court. The officer shall provide a receipt to the participant for testing or monitoring fees paid, if the participant requests, and enter a record of the payment into the Sobriety Program Information System to track each participant’s payments.
    - b. If a participant has a positive balance upon completion or termination of the sobriety program, it will be distributed according to the local jurisdiction financial accounting practices.
8. Twenty-Four Seven Sobriety Program Funds.
    - a. Pursuant to RCW [36.28A.370](#), the Sheriff or Chief, or an entity designated by the sheriff or chief shall collect daily user fees, installation fees, deactivation fees, enrollment fees, or monitoring fees and distribute deposits according to the statute and Inter Agency Agreement. The proceeds of which shall be applied and used only to defray the recurring costs of the 24/7 sobriety program including maintaining equipment, funding support services, and ensuring compliance with the program.
    - b. Any participation fee collected in the administration of testing under the 24/7 sobriety program shall be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and electronically deposited in the state 24/7 sobriety account, fund 18K.
    - c. Failure to Pay Program Fees.
      - i. If a participant fails to pay for any program fees required under the 24/7 sobriety program they will be incarcerated until they can be seen by the judge.
      - ii. If the participant is a juvenile participating in the program under an order of the Juvenile Court, the testing site shall report the juvenile participant’s failure to pay the program fees to the Juvenile Court.

## PARTICIPANT TESTING PROCEDURES

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### A. PARTICIPANT PLACEMENT IN THE 24/7 SOBRIETY TESTING PROGRAM

1. A participant charged with a qualifying offense is eligible for participation in the 24/7 sobriety testing program if a court has ordered the participant 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 participant's sentence or probation.
2. Upon being placed on the 24/7 Sobriety Program by the court the participant shall report to the testing site designated by the court no later than the next business day. The participant shall produce photo identification and a copy of the court order authorizing the participant 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 participant, and enter participant information into the Sobriety Program Information System.
3. If a participant has been ordered to participate in the 24/7 sobriety program, but the participant is in physical custody, the participant may not be placed into the program until the participant is released from physical custody. A participant on work release may be required to participate in the program.
4. A participant ordered to participate in the 24/7 sobriety program shall execute a participation statement at the testing site, or in the presence of the clerk of court or a parole and probation officer, to acknowledge and agree to the terms and conditions of the referring court ordering the participant to participate in the program. The participant will receive a copy of the program requirements and the statement.
5. The testing site or court officer will review the sobriety program participation agreement with the participant, witness the signature, and scan or enter the document/data into the Sobriety Program Information System. The participant will also receive a copy of the agreement.
6. If the participant ordered to participate in the 24/7 sobriety program refuses to sign the sobriety program participation statement, the testing site officer shall notify the referring or sentencing court. The referring court may revoke, modify, or set other conditions of bond or pre-trial release or pre-sentencing release.
7. If a juvenile participant has been ordered to participate in the 24/7 Sobriety Program and the juvenile participant and the juvenile participant's parent(s), legal guardian, or legal custodian refuses to sign the 24/7 sobriety program participation statement and release of information consent waiver, the testing site shall notify the Juvenile Court. The testing site shall refer to [RCW 13.40.040](#) regarding juvenile participants who are enrolled in the 24/7 sobriety program (i.e. entering a secured facility, entering a secure part of a facility, and/or detainment).

## B. ADMINISTRATION OF TWICE-PER-DAY BREATH TESTS

1. All participants in the 24/7 sobriety program on-site breath testing shall submit to twice-daily breath test seven days per week unless other testing methodology is ordered by the court. The tests will be given on time intervals of approximately 12 hours in between tests and will be at approximately the same times each day.
2. If a participant is participating in the 24/7 sobriety program, he/she may request breath testing at another testing site with the approval of the referring court. The participant shall provide notice to the participant's original testing site and the proposed testing site. The participant may be required to pay testing fees to the proposed testing site. The participant shall be responsible for making the arrangements between the test sites.
3. Unless the referring or sentencing court has directed otherwise, or unless a supervising probation and parole officer has directed otherwise, a testing site may coordinate with another testing site to transfer testing at the request of the participant. The participant may be required to pay testing fees to the proposed testing site.
4. If a juvenile participant is participating in the 24/7 sobriety program on-site breath testing program pursuant to an order of the Juvenile Court, the juvenile participant shall submit to testing at the test site designated by the Juvenile Court. The juvenile participant may submit to testing at another testing site with the written approval of the Juvenile Court. The juvenile participant may be required to pay testing fees to the proposed testing site. The juvenile participant, or the juvenile participant's parents, shall be responsible for making the arrangements between the test sites.
5. The testing site shall refer to [RCW 13.40.040](#) regarding juvenile participants who are enrolled in the 24/7 sobriety program (i.e. entering a secured facility, entering a secure part of a facility, and/or detainment). A juvenile participant may not be subject to breath testing in a secure part of a law enforcement agency or correctional facility.
6. A participant 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.
7. A participant shall arrive within the test period(s) set by the participating agency. Late arrival by the participant will be recorded as a "no show."
8. The testing site officer shall perform a breath test as follows:
  - a. Breath testing must be in accordance with the operating manual/training for the breath testing device and conducted by a trained operator.
  - b. The officer shall record the test result and the time of the test in the Sobriety Program Information System.

If the breath test result indicates the presence of alcohol, the testing site officer shall direct the participant to an area in plain view of the testing site officer, wait for 15 minutes

and administer another test. The test site officer shall instruct the participant to refrain from eating, drinking or placing anything in their mouth during the 15-minute wait period. If the participant fails to abide by the officer's order, a failed test will be recorded and the participant may go to jail.

### C. EXCUSED ABSENCE

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

### D. RECORDING TEST RESULTS

1. The testing site where the breath test was administered shall record the result of the breath test in the Sobriety Program Information System.
2. The testing site where the participant is assigned will record other remote electronic tampering or test failures into the Sobriety Program Information System, i.e. transdermal or remote breath.

### E. VIOLATIONS

1. Positive Breath Test.
  - a. A breath alcohol concentration of at least 0.02 by weight, unless modified by the court, after a second breath test or confirmed alcohol event on a transdermal device constitutes a violation of the twenty-four seven sobriety program. It is also a violation if the participant admits to the consumption of alcohol.
  - b. The testing facility shall record the violation in the Sobriety Program Information System and report the violation to the court, prosecutor and, if applicable, the participant's parole/probation officer.

If the testing entity is a third party testing site, the testing entity shall notify the violation to the law enforcement entity to whom it is contracted with and to the court, prosecutor and, if applicable, the participant's parole/probation officer.



- c. If a participant has a positive breath test, or admits to the consumption of alcohol a general authority Washington peace officer, as defined in [RCW 10.93.020](#), who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program may take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day ([RCW 36.28A.390](#)). Alternatively, the participant may be issued a summons to appear before a judge as outlined in section [\(4\)\(a\)](#) of this document.
  - d. If a juvenile participant has a positive breath test, or admits to the consumption of alcohol, the testing site shall notify the Juvenile Court as reasonable soon as possible. The testing site shall refer to [RCW 13.40.040](#) regarding juvenile participants who are enrolled in the 24/7 sobriety program (i.e. entering a secured facility, entering a secure part of a facility, and/or detainment).
2. Failure to Appear for Scheduled Testing.
    - a. If a participant fails to contact the testing site to participate in the program, the testing site shall immediately notify the prosecutor and the court. The court may issue a bench warrant to take the participant into custody.
    - b. If a participant fails to appear for a scheduled breath/drug test, the testing site shall record a “no show” in the Sobriety Program Information System and immediately notify the court, prosecutor and, if applicable, the participant’s parole/probation officer. The court may issue a bench warrant directing a law enforcement officer to take the participant back into custody and to appear before the court.
    - c. If the participant is a juvenile, the testing site shall record a “no show” in the Sobriety Program Information System and immediately notify the Juvenile Court that ordered the juvenile to participate in the 24/7 sobriety program of the violation. The testing site shall refer to [RCW 13.40.040](#) regarding juvenile participants who are enrolled in the 24/7 sobriety program (i.e. entering a secured facility, entering a secure part of a facility, and/or detainment).
    - d. The testing site officer will follow the order of the court regarding sanctions for a “no show.”
  3. Late Arrival.
    - a. If a participant notifies the test site but arrives late for a scheduled breath test more than two times in a six-month period, the participant will be considered to be in violation of the program unless the participant has made prior approved arrangements with the testing site.
    - b. A participant who arrives late for a scheduled breath test without having made prior approved arrangements with the testing site is in violation of the 24/7 sobriety program and may be immediately taken into custody by a law enforcement officer. The court shall be notified. Alternatively, the court may issue a bench warrant for a law enforcement officer to take the participant into

custody and appear before a court. The prosecutor, sentencing court, and/or probation shall be notified based on the participant's participation agreement.

4. Standing Orders for Violations of the 24/7 Sobriety Program
  - a. A court may issue a standing order establishing procedures for taking participants into custody, for bench warrants, warnings, or for orders to show cause for participants who have violated the sobriety program ([RCW 36.28A.390](#)), including having a positive breath/drug test, device tampering, failure to appear, or being late for on-site breath/drug testing.
5. Taking participants into custody for violations of 24/7 sobriety program conditions.
  - a. [RCW 36.28A.390](#) authorizes a law enforcement officer who has reasonable cause to believe a participant has violated a lawful order of the court that requires the individual to participate in the 24/7 Sobriety Program to immediately take the individual into custody without a warrant for a violation of the program. The individual may not be released from custody on bail or on the individual's recognizance unless the individual has made a personal appearance before a magistrate.
  - b. The testing site shall refer to [RCW 13.40.040](#) regarding juvenile participants who are enrolled in the 24/7 sobriety program (i.e. entering a secured facility, entering a secure part of a facility, and/or detention).

## REMOTE ELECTRONIC ALCOHOL MONITORING

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### A. FACTORS FOR ELIGIBILITY FOR REMOTE ELECTRONIC ALCOHOL MONITORING INCLUDES

1. The participant 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 participant participates in the 24/7 sobriety program.
2. Exigent circumstances exist, for the participant to personally report to a law enforcement agency or testing facility for on-site breath alcohol testing.
3. Based on prior contact with law enforcement or the courts, the participant is known to be at high risk for consumption of alcohol.
4. The participant has a revoked or suspended license and does not have a lawful transportation alternative for on-site testing.
5. A remote electronic alcohol monitoring device and the supporting equipment are available.
6. The participant is capable of wearing a transdermal alcohol sensing ankle bracelet and/or paying the daily user, participation, equipment, monitoring, activation and deactivation fees.

7. If a juvenile participant has been ordered by the Juvenile Court to participate in the 24/7 sobriety program and the Juvenile Court has determined the juvenile should participate by remote electronic alcohol monitoring.

## **B. REMOTE ELECTRONIC ALCOHOL MONITORING PROCEDURE**

1. The court shall advise the participant that as a condition of bond or other pre-trial release, pre-sentencing release, sentence, or probation, the participant may be placed in the sobriety program and subject to remote alcohol monitoring equipment.
2. The participant shall report to a law enforcement agency or their designee. A testing site officer shall advise the participant of the remote electronic alcohol monitoring requirements, have the participant sign a statement acknowledging the remote electronic alcohol monitoring requirements, install or arrange for the installation of the bracelet or other device, provide any other equipment as necessary, schedule times for remote electronic alcohol monitoring reporting and enter the testing device into the participants record in the Sobriety Program Information System.
3. The testing site shall advise the participant as to all remote electronic alcohol monitoring equipment requirements, replacement costs and the participant's responsibility for any damaged, lost, or destroyed remote electronic alcohol monitoring equipment.
4. The participant must be within the range of the remote electronic alcohol monitoring equipment at reporting times scheduled by the testing site. Remote electronic alcohol tests may be at regular or random intervals.
5. If a juvenile participant is participating in the 24/7 sobriety program, the Juvenile Court shall advise the juvenile participant and the testing site of the Juvenile Court's remote electronic alcohol monitoring requirements.

## **C. VIOLATIONS OF REMOTE ELECTRONIC ALCOHOL MONITORING/ NON-COMPLIANCE REPORTING**

1. Violations of the remote electronic alcohol monitoring 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 a remote electronic alcohol monitoring modem at reporting times scheduled by the testing site.

If a remote monitoring device reports a positive alcohol detection during the initial test and subsequent conformation test(s), the testing site monitoring the participant shall attempt to have the participant contacted in person by law enforcement.

- a. If the participant admits to alcohol consumption, the positive alcohol test shall be recorded as a violation.
- b. If the participant does not admit to alcohol consumption, law enforcement shall administer a PBT test to confirm the violation. A breath alcohol concentration of at least 0.02 by weight, unless modified by the court, after a second breath test shall be recorded as a violation.



## D. REMOVAL OF AND PAYMENT FOR REMOTE ELECTRONIC ALCOHOL MONITORING BRACELET AND SUPPORTING EQUIPMENT

1. Only authorized personnel may remove the bracelet from a participant, and only:
  - a. When the program is complete;
  - b. Upon order of the court;
  - c. If the participant is taken into custody;
  - d. If medically necessary;
  - e. If the bracelet malfunctions; or
  - f. For routine maintenance.
  - g. If the participant has switched from remote electronic alcohol monitoring to twice-per-day breath testing.
2. The participant shall return all remote electronic alcohol monitoring equipment at the time of removal of the bracelet, unless another bracelet is installed on the participant.
3. The participant shall be responsible for all costs, including replacement and repair of a damaged bracelet, or other supporting equipment.

## URINALYSIS AND SALIVA DRUG TESTING

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### A. URINALYSIS TESTING

1. Urinalysis/Saliva testing will be ordered by the court and conducted at scheduled and/or random intervals.
2. Testing will be in accordance with the testing device manufacturer's process, procedures and training protocols.
3. If a participant has a positive sample, the testing site shall ask the participant whether the participant has used alcohol or controlled substances. If the participant admits using alcohol or controlled substances, the testing site shall request the participant sign a written admission.
4. If a participant's sample is positive for alcohol or a controlled substance, the participant is in violation of the program. If there is a violation, the testing site officer shall notify the referring court and the prosecutor of the violation. The testing site officer may request a law enforcement officer to take the participant into custody pending further court proceedings. If the participant is a probationer or parolee, the testing site shall notify the participant's supervising parole and probation officer.
5. A positive sample may be sent to a laboratory for confirmation. If the participant admits to using alcohol or controlled substances and signs a written admission, it is usually not necessary to send the sample to a laboratory for confirmation.
6. If the participant defrauds the urine/saliva test, it is a violation of the program. If the participant defrauds the urine/saliva test, the testing site shall notify the referring court and the prosecutor of the violation. The testing site shall also request a law enforcement

officer to take the participant into custody pending further court proceedings. If the participant is a probationer or parolee, the testing site shall notify the participant's supervising parole and probation officer.

7. A court may issue its own standing order under ([RCW 36.28A.390](#)) for taking participants into custody, for bench warrants, or for orders to show cause for participants who have a positive urine test for alcohol or controlled substances pending laboratory confirmation.
8. If a Juvenile Court has ordered a juvenile participant to be subject to urine testing under the 24/7 sobriety program, and the juvenile defrauds the test or submits a positive urine sample, the testing site shall notify the Juvenile Court that ordered the juvenile participant to submit to urine testing as part of the 24/7 sobriety program of the violation.

## B. DRUG PATCH TESTING

1. If a participant has been ordered to participate in the program by drug patch testing, the testing site shall place the drug patch on the participant in accordance with the manufacturer's instructions.
2. Only the testing site officers authorized may remove the drug patch from the participant. Removals will be in accordance with the manufacturer's recommendations.
3. If the drug patch is positive for a controlled substance, been tampered with, or if the drug patch has been removed without authorization from the testing site, the participant is in violation of the program.
4. If a participant is in violation of the program because of a positive drug patch, the testing site may detain the participant and notify the referring court and the prosecutor of the violation. If a licensed peace officer is not available at the testing site, the testing site may request a law enforcement officer to take the participant into custody pending further court proceedings. If the participant is a probationer or parolee, the testing site shall notify the participant's supervising parole and probation officer.
5. A court may issue its own standing order under ([RCW 36.28A.390](#)) for taking participants into custody, for bench warrants, or for orders to show cause for participants who have a positive drug patch test for controlled substances pending laboratory confirmation.
6. If the Juvenile Court has ordered a juvenile participant to participate in the 24/7 sobriety program by drug patch testing, if the juvenile participant is in violation of the program because of a positive drug patch, the testing site shall notify the Juvenile Court of the violation. The testing site shall refer to [RCW 13.40.040](#) regarding juvenile participants who are enrolled in the 24/7 sobriety program (i.e. entering a secured facility, entering a secure part of a facility, and/or detainment).

## COMPLETION, TERMINATION, RE-ENTRY

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### A. COMPLETION OR TERMINATION

1. A participant's participation in the program ends upon completion of the program or termination of the program as ordered by the court.
2. If the participant 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 participant was on pre-sentencing release, imposition of sentence.
3. If the participant has been assigned to the program as a condition of sentence or probation, completion of the program means the participant has met the established time and conditions of the sentence or probation set by the court. For unsupervised probation, the court will notify the testing site the participant has completed the program. For supervised probation, the supervising probation officer will notify the testing site the participant has completed the program.
4. Termination of the program means the court has determined that the participant will no longer participate in the program, either because the participant has completed the terms of the court order or has violated the terms and conditions of the program, or because the court has determined the participant is not required to participate in the program.
5. If the participant has been assigned to the program as a condition of parole, completion of the program means the participant has met the established time and conditions of the sentence or probation set by the court.
6. If the participant is a juvenile participant, completion of the program means the juvenile participant has met the terms and conditions of the Juvenile Court for completion of the 24/7 sobriety program.
7. The testing site shall enter the participant's completion of the program or termination of the program into the Sobriety Program Information System upon notification that the participant has completed the program or has been terminated from the program.

## **B. RE-ENTRY INTO PROGRAM**

1. The court may authorize a participant to re-enter the program in accordance with terms and conditions established by the court.
2. The Juvenile Court may authorize a juvenile participant to re-enter the 24/7 Sobriety Program in accordance with terms and conditions established by the juvenile court.
3. If the participant had been previously terminated from the program by the court and the court authorizes re-entry, the participant will pay the \$30.00 enrollment fee for re-entry into the Sobriety Information System. If the participant is in inactive, suspended, or warrant status and is reactivated in the program, no additional enrollment fee is required if the reactivation is stemmed from the original case.

## **24/7 SOBRIETY PROGRAM RECORDS RETENTION**

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Record retention of the 24/7 Sobriety program statewide database will be the responsibility of WASPC as defined in each participating agency's Interagency Agreement with WASPC. Local 24/7 Sobriety program files will be handled according to each entity's record retention schedule.

The 24/7 Sobriety Program is not exempt from the Washington State Public Records Act, [42.56](#).

## **24/7 SOBRIETY PROGRAM ADVISORY COUNCIL**

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WASPC will establish a 24/7 sobriety program advisory council. The council will meet at least annually to review the program guidelines, fee structure, statutes, and program operation. The group will include, at a minimum:

- a. The WASPC 24/7 Sobriety Program Manager;
- b. Law enforcement representatives from participating agencies
- c. A Judge representing one of the participating agencies;
- d. A Prosecutor representing one of the participating agencies;
- e. A representative from the Office of Public Defense;
- f. A representative from a private vendor under contract with a participating agency to conduct 24/7 sobriety program testing; and
- g. A representative from the Washington Traffic Safety Commission.



**APPENDIX I**

**SAMPLE INTERAGENCY AGREEMENT  
BETWEEN  
WASHINGTON ASSOCIATION OF SHERIFFS AND POLICE CHIEFS  
AND THE TBD AGENCY**

**THIS AGREEMENT** (“Agreement”) is made and entered into by and between the Washington Association of Sheriffs and Police Chiefs (“WASPC”), and the TBD (“Participating Agency”).

**THEREFORE, IT IS MUTUALLY AGREED THAT** the Participating Agency shall establish and maintain a 24/7 Sobriety Program as outlined in RCW 36.28A.300-390 and Exhibit A hereto, to monitor people charged with, arrested for, or convicted of, one or more prior offenses under RCW 46.61.502 (driving under the influence), 46.61.504 (physical control of vehicle under the influence), or as defined in 46.61.5055 (14) (Penalties) per the terms and conditions of this Agreement.

**1. ADMINISTRATION, FINANCING, AND PROPERTY ACQUISITION**

This Agreement will be administered by the Parties as set forth in Exhibit A, which is incorporated into this Agreement by this reference. This Agreement does not create any separate legal or administrative entity, nor does it contemplate any joint financing. This Agreement does not contemplate the joint acquisition of property by the parties. At termination, each party will remain the sole owner of its own property.

**2. TERM**

The Term of this Agreement shall commence on February 1, 2016 and remain in effect for a period of two calendar years. This Agreement shall supersede any previous Agreements.

**3. COMPENSATION**

The cost of and fees collected to accomplish the work is described in Exhibit A.

**4. RECORDS MAINTENANCE**

The parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct funds expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, or the Office of the State Auditor so authorized by law. All books, records, documents, and other material relevant to this Agreement shall be retained for six years.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available any software specific material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

However, both parties recognize that documents may be subject to disclosure pursuant to RCW 42.56, and nothing in this section is intended to otherwise limit disclosure required subject to reasonable notice of the intent to disclose software specific material being provided to the other party.

#### **5. RIGHTS IN DATA**

Unless otherwise provided, WASPC data that originates from this Agreement shall be owned by WASPC. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

Data originating from the participating agency shall be owned by the agency.

#### **6. INDEPENDENT CAPACITY**

The employees or agents of each party engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

#### **7. AGREEMENT ALTERATIONS AND AMENDMENTS**

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

#### **8. TERMINATION**

Either party may terminate this Agreement upon sixty (60) days prior written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

#### **9. TERMINATION FOR CAUSE**

If either party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such default and the opportunity to cure within thirty (30) business days. If the default is not timely cured, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

#### **10. NONDISCRIMINATION**

The Participating Agency will comply with all applicable State statutes and implementing regulations relating to nondiscrimination.

## **11. DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules, and decide the dispute. The decision of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

## **12. GOVERNANCE**

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable county or city laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state, county, and city statutes and rules;
- b. Terms and Conditions of this agreement;
- c. Any Amendment executed under this Contract;
- d. Any Statement of Work executed under this Contract; and
- e. Any other provisions of the agreement, including materials incorporated by reference.

## **13. WAIVER**

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

## **14. SEVERABILITY**

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

## **15. ALL WRITINGS CONTAINED HEREIN**

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**16. DESIGNATED CONTACT**

The following named individuals will serve as designated contacts for each of the parties, for all communications regarding the performance of this Agreement:

WASPC Contact	AGENCY Contact
Jamie Weimer, Projects & Programs Manager WA Assn. of Sheriffs and Police Chiefs 3060 Willamette Drive NE Lacey, WA 98516 360.486.2419—Direct 360.259.2494—Cell <a href="mailto:jweimer@waspc.org">jweimer@waspc.org</a>	

**IN WITNESS WHEREOF**, the parties have executed this Agreement.

For WASPC	For PARTICIPATING AGENCY
Name: Title: Executive Director Agency: WA Association of Sheriffs and Police Chiefs Date:	Name: Title: Agency: Date:
Signature:	Signature:

## EXHIBIT A

### STATEMENT OF WORK

Pursuant to RCW 10.21.055 and 46.61.5055, people charged with, arrested for, or convicted of alcohol and/or drug offenses under RCW 46.61.502 (DUI), 504 (Physical Control), or as defined in 46.61.5055 (14) (Penalty) may be ordered by the judge as a condition of bond, pre-trial release, or sentence, to participate in the 24/7 Sobriety Program.

The program name “24/7 Sobriety Program” means a twenty-four hour and seven day a week monitoring program in which a participant submits to the testing of their blood, breath, urine, or other bodily substances in order to determine the presence of alcohol, marijuana, or any controlled substance in the participant’s body.

### ACTIVITIES

**WASPC** agrees to provide to Participating Agency:

- (1) A data management system for the 24/7 Sobriety Program;
- (2) Liaison with the 24/7 Sobriety Program data management vendor;
- (3) Assistance in obtaining alcohol monitoring devices and supplies for the 24/7 Sobriety Program;
- (4) Form templates necessary for the 24/7 Sobriety Program;
- (5) Assistance and coordination with the local 24/7 program and their stakeholders in the implementation of the 24/7 Sobriety Program.
- (6) Liaison with Washington Traffic Safety Commission in the development of media and other educational material related to the 24/7 Sobriety Program and impaired driving.
- (7) Liaison with the Governor and Legislators in matters related to the 24/7 Sobriety Program and impaired driving.

**PARTICIPATING AGENCY** agrees to:

- (1) Assign a program manager to establish and oversee their 24/7 Sobriety Program;
- (2) Establish and maintain a local 24/7 Sobriety Program working group. This working group, at a minimum, may include a member of the local judicial staff, judge, law enforcement, prosecutor, probation, corrections, and public defender/defense bar.
- (3) Establish a local 24/7 sobriety account following applicable accounting and financial guidelines.
- (4) Comply with court orders, written directives, authorizing statutes, policy/procedures in conducting enrollment, testing, fee collection, and reporting activities;
- (5) Establish the 24/7 testing locations, testing device(s) used, and times for testing.
- (6) Provide Information Technology infrastructure, testing equipment, associated supplies, personnel, test site(s) and all overhead costs.
- (7) Timely submit all applicable fees received for deposit in the 24/7 Sobriety Accounts;

- (8) In the event a participating agency designates one or more entities to perform enrollment, testing and reporting functions under the 24/7 Sobriety Program, participating agency agrees to require such designated entity or entities to comply with the terms and conditions of this AGREEMENT resulting from such designation;
- (9) Abide by the terms of the WASPC/Vendor data management system contract;
- (10) Abide by the Washington 24/7 Sobriety Program “Guidelines for Participating Agencies” document.
- (11) Use on-site PBT testing as the default alcohol testing protocol.
- (12) Use the WASPC designated data management system (IntoxiTrack) to track 24/7 Sobriety Program participation.
- (13) Fully cooperate with WASPC and other participating agencies in implementing, troubleshooting, and reviewing the 24/7 Sobriety Program.
- (14) Provide quarterly reports for all testing conducted for the 24/7 Sobriety Program.

### **24/7 PARTICIPANTS AND TESTING DEVICES**

- (1) A participant in the 24/7 Sobriety Program shall submit to court ordered breath alcohol testing, through the use of a PBT, at least twice a day, approximately 12 hours apart, at a physical location chosen by the participating agency.
- (2) A participant may be placed on a remote testing device that is capable of scheduled and/or random breath tests or continuous monitoring by the use of transdermal alcohol technology.
- (3) All testing devices must have the capability to immediately report participants’ electronic instrument’s installation date, and testing results to the 24/7 test site or other designated contact.

### **24/7 TESTING FEES AND PROCEDURES**

#### **(1) Enrollment**

- a. Each participant enrolled in the 24/7 Sobriety Program will pay a one-time thirty dollar (\$30.00) enrollment fee. The enrollment fee will be collected by the participating agency for deposit into the local 24/7 Sobriety Account.

#### **(2) On-Site Portable Breath Test (PBT) User and Participation Fee.**

- a. Each participant assigned to on-site breath testing shall pay two dollars (\$2.00) per test (one dollar and fifty cents (\$1.50) test fee and fifty cents (\$.50) participation fee). These fees will be collected by the participating agency for deposit into the local 24/7 Sobriety Account. The City/County Treasurer will transfer on a monthly basis fifty cents (\$0.50) per test to the state’s 24/7 Sobriety account. The fee is payable contemporaneously or in advance on a weekly basis, or in accordance with a schedule established at the testing site. This does not preclude the participant from paying in advance for a period of time more than one week.

(3) Remote Electronic Alcohol Monitoring Participation Fee.

- a. No more than twelve dollars (\$12.00) per day for a remote breath testing device. This fee will be collected by the participating agency for deposit into the local 24/7 Sobriety Account. The City/County Treasurer will transfer on a monthly basis fifty cents (\$0.50) of the per day fee to the state's 24/7 Sobriety Account.
- b. No more than fifteen dollars (\$15.00) per day for a transdermal device (ankle bracelet) plus a thirty dollar (\$30.00) de-activation fee. These fees will be collected by the participating agency for deposit into the local 24/7 Sobriety Account. The City/County Treasurer will transfer on a monthly basis fifty cents (\$0.50) of the per day fee to the state's 24/7 Sobriety Account.

(4) Urinalysis/Drug Patch User and Participation Fee.

- a. Ten dollars (\$10.00) per test for urinalysis plus the charge of laboratory confirmation on a positive screening test if necessary. The fees will be collected by the participating agency for deposit into the local 24/7 Sobriety Account. The City/County Treasurer will transfer on a monthly basis fifty cents (\$0.50) per test recorded into the sobriety database to the state's 24/7 Sobriety Account.
- b. Fifty dollars (\$50.00) per patch per week for drug patch testing. The fees will be collected by the participating agency for deposit into the local 24/7 Sobriety Account. The City/County Treasurer will transfer on a monthly basis fifty cents (\$0.50) per test to the state's 24/7 Sobriety Account.
- c. The duration and frequency of drug testing will be determined by the court and/or the discretion of the 24/7 sobriety testing center. The time and location of the urine testing will be determined by the individual 24/7 sobriety testing center.

(5) Juvenile Participant Fees.

- a. The same fees applicable to adult participants are applicable to juveniles ordered by the Juvenile Court to participate in the 24/7 sobriety program.

(6) Method of Payment.

- a. Each participant shall pay testing fees contemporaneously or in advance. This does not preclude the participant from paying in advance for a longer period of time. The participant shall pay the testing or monitoring fees in cash, cashier check, money orders, or electronically if the participating agency accepts these transactions. No personal checks will be accepted. No test will be administered before payment is received and participants will not be allowed to test if there is no money in their account. If a participant shows up to test and there is no money in their account and they do not have money to pay the test fee, the testing officer will record the event in the sobriety information system as a (no show) and notify the court. The officer shall provide a receipt to the participant for testing or monitoring fees paid, if the participant requests, and enter a record of the payment into the Sobriety Program Information System to track each participant's payments.

- b. If a participant has a positive balance upon completion or termination of the sobriety program, the balance will be refunded back to the participant according to the local jurisdiction's financial accounting practices.

**ALL PARTIES AGREE THAT:**

- (1) Fees will be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and deposited with the county or city treasurer. The proceeds of which shall be applied and used only to defray the recurring costs of the 24/7 sobriety program including maintaining equipment, funding support services, and ensuring compliance;
- (2) Fees will be collected, deposited, and dispersed in accordance with RCW 36.28A.320, 36.28A.370 and OFM rules.
- (3) All applicable fees shall be paid by the participant contemporaneously or in advance of the time when the fee becomes due. There will be no participant credit allowed and testing will not proceed without fee payment.
- (4) The court shall not waive or reduce fees or associated costs charged for participation in the 24/7 Sobriety Program.
- (5) A participant may be removed from the 24/7 sobriety program by the court at any time.



## APPENDIX II

## SAMPLE

**PARTICIPANT AGREEMENT, WAIVER, CONSENT, AND RELEASE OF INFORMATION FORM  
24/7 Sobriety Program**

Defendant: \_\_\_\_\_

Start Date: \_\_\_\_\_ Anticipated Completion Date: \_\_\_\_\_

Court: \_\_\_\_\_ Court Case Number: \_\_\_\_\_

Offense: \_\_\_\_\_

***Program Participation (c one) (Condition of Release/Bond) (Post Conviction)***

I agree to my placement in Washington 24/7 Sobriety Program (hereinafter referred to as "Program"). As a condition of being placed in this Program, I agree to strictly comply with all Program and vendor requirements and to follow the instructions of my court service officer, parole agent, or law enforcement representative (hereinafter referred to as "Contact Person"). I further agree to assist in my enrollment in the 24/7 Sobriety Program and execute all documents that are part of the enrollment process.

○ **TWICE DAILY ON-SITE BREATH TESTING**

I am required to complete two breath tests daily, once in the morning and again in the evening at the following test site:

Location: \_\_\_\_\_

Hours: 7 days a week, 365 days a year

Morning test: \_\_\_\_\_

Evening test: \_\_\_\_\_

**15 Minutes** prior to testing I WILL NOT consume any food, beverage, gum, toothpaste, or tobacco products. I WILL NOT put anything in my mouth **15 minutes** prior to testing.

I understand that tests performed at another facility DO NOT count for this program; unless, prior arrangements have been made with my Contact Person or their designee at my testing facility. Unauthorized tests at another facility will be considered violations. If I must leave the area, I will coordinate with my attorney and the 24/7 Sobriety Program testing facility to make sure that the facility has the appropriate paperwork at least one week before I leave.

○ **REMOTE/MOBILE ELECTRONIC ALCOHOL TESTING DEVICES**

I agree to wear a transdermal alcohol testing bracelet, i.e.; AMS SCRAM, BI TAD, or use a remote/mobile electronic alcohol breath testing device, i.e.; BI Soberlink SL2, AMS SCRAM Remote Breath, if offered by my testing site and agreed to by the judge, for the duration of my

participation in the Program, I will follow the Program's and vendor's conditions of use for any of these devices.

I understand that the remote/mobile electronic alcohol testing device will, at pre-programmed and/or scheduled intervals, test me for the presence of blood alcohol concentration that is emitted as vapors through my skin or by breath. When the remote/mobile electronic alcohol testing device detects the presence of alcohol, it will record, store, or forward a positive reading and will transmit an alcohol alert to a designated testing center. The remote/mobile electronic alcohol testing device also contains systems designed to detect interference or tampering and will also record, store and transmit a tampering alert to the designated testing center.

I understand that tampering with the remote/mobile electronic alcohol testing device, placement of material between a device and my skin, or any other interference with the taking of samples and download of information will constitute a violation of this Agreement.

I understand that a remote/mobile electronic alcohol testing device may record a photo or video image of me and transmit it via an analog or cellular signal.

If I am using a remote/mobile breath testing device, **I WILL NOT** consume or use any food, beverage, gum, toothpaste, or tobacco products at least 15 minutes prior to testing. I will not put anything in my mouth **15 minutes** prior to testing.

I understand that my daily remote/mobile ELECTRONIC ALCOHOL TESTING device schedule will be determined by my Contact Person.

I understand that I may be alerted to take random remote/mobile electronic testing samples at any time.

○ **URINALYSIS/DRUG PANEL OR DRUG PATCH TESTING**

I agree to follow the instructions and procedures of the court, test site officers, and equipment providers when participating in drug testing. I agree that only test site officers may remove a drug patch from my body. If I remove a drug patch that has been applied to my body, or I attempt to manipulate a urinalysis, it will be recorded as a failed test and I may go to jail.

**FEES**

I will pay all user and participation fees set by the Participating Agency agreement for the testing I have been placed on. I understand these fees may change while I am on the Program. The current user, testing and participation fees are:

- \$30.00 enrollment. This fee is not charged with a transdermal device because it is inclusive in the activation/deactivation fee.
- \$2.00 per on-site breath test
- \$12.00 per day for a remote breath testing device.
- \$10.00 per test for urinalysis plus the charge of laboratory confirmation on a positive screening test.
- \$15.00 per day for a transdermal device (ankle bracelet) plus \$30.00 activation fee and \$30.00 deactivation fee.

- \$50.00 per week for drug patch monitoring.

I will pay my fees in advance or at the time of testing as determined by the test site and I will not be afforded any credit. I also understand that I will be held responsible for any repair or replacement costs for loss or damage to the testing equipment assigned to me that is not due to normal use.

### **GENERAL CONDITIONS**

I agree to not participate in the following restricted activities, and understand that a violation of any of these provisions constitutes a violation of this Agreement:

**No Non-Prescribed Drugs**—I agree that I will not possess or consume any non-prescribed, marijuana, or other drugs, nor will I knowingly be present where other persons are doing so.

**No Alcohol**—I understand that I am not to consume, use or possess any product containing alcohol, including, but not limited to: alcoholic beverages, mouthwash, medicinal alcohol, household cleaners and disinfectants, lotions, body washes, perfumes, colognes, or other hygiene products that contain alcohol.

**No Bars**—I agree I will not enter any bar or other establishment where alcohol or marijuana is offered for sale or consumption on the premises.

I understand that my Contact Person may use telephone calls, the alcohol/drug testing equipment, software, monitoring centers, and personal visits to evaluate my compliance with this Agreement. Therefore, when I am at home, I agree to promptly answer my telephone or door. I further understand and agree that all telephone calls between my Contact Person and me may be tape-recorded.

I agree to allow my assigned Contact Person or their designee the right to inspect and maintain the electronic alcohol testing device and base station, if applicable, and further agree to meet my assigned Contact Person or designee at the time and place requested for this purpose.

If I am unable to personally reach my Contact Person, I agree to leave notification on the Contact Person's message service or by other documented means. I will include my name, date, time, and the nature of my problem.

### **CONSEQUENCES**

If the testing device or drug screening tool indicates the presence of alcohol, marijuana, and/or drugs, I may go to jail.

I will not miss a test. A No-Show during my designated testing hours is a violation of the 24/7 Sobriety Program and I may go to jail.

Failure to pay will be considered a violation of my bond condition, condition of release, or judgment and I may go to jail pending additional court action.

I understand that if I violate the 24/7 Sobriety Program and I am incarcerated and/or a warrant is issued for my arrest, I may be subject to warrant service and incarceration fees. Warrant service and/or incarceration fees will be assessed by the court.

I understand that a Sheriff or Chief, or the designee of a Sheriff or Chief, who has probable cause to believe that I have violated the terms of participation in the 24/7 sobriety program or if I have not paid the required fees or associated costs, shall immediately take me into custody and cause me to be held until an appearance before a judge on the next judicial day.

**Any violation of this Agreement will be reported to my Contact Person, law enforcement official, my court service officer, my parole officer or the judge as appropriate for additional consequences.**

### **PENALTIES**

#### **RCW 36.28A.390: 24/7 sobriety program — Violation of terms — Penalties.**

4. A general authority Washington peace officer, as defined in [RCW 10.93.020](#), who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program may immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.
5. A participant who violates the terms of participation in the 24/7 sobriety program or does not pay the required fees or associated costs pretrial or post trial shall, at a minimum:
  - f) Receive a written warning notice for a first violation;
  - g) Serve a minimum of one day imprisonment for a second violation;
  - h) Serve a minimum of three days imprisonment for a third violation;
  - i) Serve a minimum of five days imprisonment for a fourth violation; and
  - j) Serve a minimum of seven days imprisonment for a fifth or subsequent violation.
6. The court may remove a participant from the 24/7 sobriety program at any time for noncompliance with the terms of participation. If a participant is removed from the 24/7 sobriety program, the court shall send written notice to the department of licensing within five business days.

### **ACKNOWLEDGEMENT**

I hereby acknowledge that I have read this Participation Agreement and understand its terms. I agree to comply with each of the conditions of my participation in the 24/7 Sobriety Program. I also authorize the disclosure and exchange of information relating to my participation in the 24/7 sobriety program among the agencies associated with the program.

Additionally, I grant permission for these agencies to release, disclose, and exchange information including, but not limited to, enrollment, reporting, infractions or violations, and other information collected during my participation in the 24/7 sobriety program; information contained in my criminal records; and other information maintained by law enforcement agencies.

Participation records in the 24/7 sobriety program may be used by the above-listed agencies for authorized government and law enforcement activities. These activities include, but are not limited to, determining whether you used alcohol and/or drugs while in the 24/7 sobriety program; monitoring your compliance with the order placing you in the 24/7 sobriety program; and investigating whether you violated the 24/7 sobriety program's conditions and taking appropriate action. This information may also be used to evaluate the effectiveness of the 24/7 sobriety program.

I understand that my health care, alcohol and/or treatment records are generally confidential and protected under state and federal regulations governing Health Care Records and Alcohol and Drug Abuse Patient Records. Notwithstanding, I understand that to participate in the 24/7 Sobriety Program I am waiving any and all confidentiality or protections under such regulations. I understand and agree that information gathered during my participation in the 24/7 Sobriety Program may be disclosed to those charged with administrating the program to the extent of their official duties.

This Release of Information remains in effect and cannot be revoked while you are a participant in the 24/7 sobriety program. This Release of Information will expire when you complete the 24/7 sobriety program. All information obtained during your participation in the program may be used for statistical purposes and may be disclosed and exchanged among the above listed agencies if you are again placed in the 24/7 sobriety program.

You may be contacted for follow-up interviews to provide information for statistical purposes, which may include information related to your sobriety.

Removal from the 24/7 Sobriety Program for a violation does not constitute completion of the program.

In the event you are placed in jail on a violation of the 24/7 sobriety program you are required to immediately resume testing upon release from custody unless ordered differently by a judge.

Participant's

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Cell Phone/other: \_\_\_\_\_

Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Witness' Signature: \_\_\_\_\_

Witness' Name/Title: \_\_\_\_\_

## APPENDIX III

## SAMPLE

IN THE MUNICIPAL COURT OF THE CITY OF CENTRALIA, LEWIS COUNTY, WASHINGTON

CITY OF CENTRALIA, ) CAUSE NO.  
 )  
 PLAINTIFF )  
 )  
 vs. ) ORDER ESTABLISHING CONDITIONS OF  
 ) RELEASE INTO 24/7 SOBRIETY PROGRAM  
 \_\_\_\_\_ )  
 )  
 DEFENDANT )

IT IS HEREBY ORDERED, pursuant to RCW 36.28A.300-.390, that the above-named defendant shall be released from the Lewis County Jail under this cause number and/or warrant number on the following conditions:

- \_\_\_\_\_ 1. Defendant shall be released on his/her own recognizance without bond or payment.
- \_\_\_\_\_ 2. Defendant shall be released in the custody of: \_\_\_\_\_.
- \_\_\_\_\_ 3. Defendant shall post an unsecured appearance bond of \$ \_\_\_\_\_.
- \_\_\_\_\_ 4. Defendant shall post a cash or security bond of \$ \_\_\_\_\_.
- \_\_\_\_\_ 5. Defendant shall not go to the following area/premise: \_\_\_\_\_.
- \_\_\_\_\_ 6. Defendant shall not:
  - \_\_\_\_\_ a. Possess or consume any alcohol or non-prescription controlled substance.
  - \_\_\_\_\_ b. Possess or consume any non-prescription marijuana.
  - \_\_\_\_\_ c. Enter any bar or tavern or frequent establishments that sell alcohol by the drink.
  - \_\_\_\_\_ d. Operate any motor vehicle without a valid license and insurance.
- \_\_\_\_\_ 7. Defendant shall enroll in the 24/7 Sobriety Program by 9:00 a.m. on the next business day following his/her release from jail at the Centralia Police Department. The Defendant shall be ordered to participate in:
  - \_\_\_\_\_ a. Twice-per-day breath alcohol testing.
  - \_\_\_\_\_ b. Remote electronic alcohol monitoring.
  - \_\_\_\_\_ c. Drug patch testing.
- \_\_\_\_\_ 8. Defendant shall have a functioning ignition interlock device installed, by a certified ignition interlock service provider, on all motor vehicles operated by the Defendant, with proof of installation filed with the Centralia Municipal Court by the Defendant or the certified ignition interlock provider within five (5) business days of his/her release from jail OR by \_\_\_\_\_.
- \_\_\_\_\_ 9. Defendant shall have no violations of any criminal law.
- \_\_\_\_\_ 10. Defendant shall clear all outstanding warrants within \_\_\_\_\_ days.
- \_\_\_\_\_ 11. Defendant shall maintain contact with his/her attorney so that Defendant can appear in Court within 48 hours notice to the attorney and shall appear in court as ordered.
- \_\_\_\_\_ 12. Defendant shall appear in Centralia Municipal Court as ordered.
- \_\_\_\_\_ 13. Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ 14. Defendant shall appear before the Centralia Municipal Court located at 118 W. Maple St., Centralia, Washington, 98531, on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

DATE: \_\_\_\_\_

CENTRALIA MUNICIPAL COURT JUDGE: \_\_\_\_\_

**I have read/had read to me the above conditions of release. I further understand any on-site testing violations of the 24/7 Sobriety Program will result in me being taken immediately into custody pending further court proceedings and that any bond posted may be forfeited. Further, the Court may authorize issuance of a warrant for my arrest upon any violation. I have received a copy of this Order as evidence by my signature below.**

DEFENDANT: \_\_\_\_\_

DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_