

LEGISLATIVE BILL 271

Approved by the Governor May 24, 2021

Introduced by Morfeld, 46; Hansen, M., 26.

A BILL FOR AN ACT relating to driving under the influence; to amend sections 29-901, 60-480, 60-498.01, 60-4,115, 60-6,197.05, 60-6,197.06, 60-6,211.11, and 60-1513, Revised Statutes Cumulative Supplement, 2020; to adopt the 24/7 Sobriety Program Act; to authorize a 24/7 sobriety program permit for operating a motor vehicle as prescribed; to provide a penalty; to change provisions relating to a fund; to harmonize provisions; to provide an operative date; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

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

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

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

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

(1) 24/7 sobriety program means a program that, as a condition of bail as ordered by a court, requires an individual who was arrested to:

(a) Totally abstain from alcohol and drugs for a specified period of time;
(b) Be subject to at least twice daily testing for alcohol according to best practice standards; and

(c) Be subject to drug testing if indicated by best practices;

(2) Department means the Department of Motor Vehicles;

(3) Director means the Director of Motor Vehicles; and

(4) Testing means a method to determine the presence of alcohol or drugs.

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

(2) A 24/7 sobriety program shall meet at least the following minimum program requirements:

(a) Testing shall occur twice a day every day at a testing location or locations established by the county sheriff or a designated entity or continuously with a continuous alcohol monitoring device or similar technology;

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

(c) Participants shall not consume alcohol or any drug not prescribed by a physician.

(3) If a test reveals a violation of the 24/7 sobriety program, sanctions imposed shall be immediate and certain and in accordance with best practices, as set forth in the participation agreement. A sixth sanction against a participant charged with an alcohol-related offense shall be removal from the 24/7 sobriety program and the participant shall be ineligible for further participation in the program for that case. Sanctions for new drug use may be more severe and shall be outlined in the participation agreement.

(4) The sheriff or designated entity shall establish a reasonable fee to cover the setup and operation of a 24/7 sobriety program for all participants. Reasonable program and testing fees may be charged. Testing costs may vary by participant depending on the technology employed. Testing costs may be higher if the participant is involved in the program due to a non-alcohol, drug-related offense. All fees and costs charged pursuant to this subsection shall be set forth in the participation agreement. Such costs and fees may be waived by the court if the participant has made a showing to the court of an inability to pay.

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

(6) Nothing in the 24/7 Sobriety Program Act shall be construed to limit

the ability of a court to utilize any form of technology to (a) detect the use or presence of alcohol or drugs or (b) comply with other forms of supervision deemed appropriate by the court.

Sec. 5. (1) If an individual has been arrested for a violation of section 60-6,196 or 60-6,197 or a city or village ordinance enacted in conformance with such sections and is participating in a 24/7 sobriety program, such individual may petition the court for an order allowing the individual to apply for a 24/7 sobriety program permit as set forth in section 6 of this act. A 24/7 sobriety program permit shall only be issued if the individual's operator's license has been revoked pursuant to section 60-498.01 for the pending offense.

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

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

(4) The holder of a commercial driver's license under the Motor Vehicle Operator's License Act is not eligible for a 24/7 sobriety program permit.

(5) A person shall be eligible to be issued a 24/7 sobriety program permit allowing operation of a motor vehicle if he or she is not subject to any other suspension, cancellation, required no-driving period, or period of revocation and has successfully completed the application for a 24/7 sobriety program permit.

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

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

(3) The director shall revoke a 24/7 sobriety program permit issued under this section upon receipt of an (a) abstract of conviction indicating that the individual's operating privileges have been revoked or (b) order from a court revoking the individual's 24/7 sobriety program permit.

Sec. 7. Section 29-901, Revised Statutes Cumulative Supplement, 2020, is amended to read:

29-901 (1) Except as provided in subsection (2) of this section, any bailable defendant shall be ordered released from custody pending judgment on his or her personal recognizance unless the judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required or that such a release could jeopardize the safety and maintenance of evidence or the safety of victims, witnesses, or other persons in the community.

(2)(a) This subsection applies to any bailable defendant who is charged with one or more Class IIIA, IV, or V misdemeanors or violations of city or county ordinances, except when:

(i) The victim is an intimate partner as defined in section 28-323; or
(ii) The defendant is charged with one or more violations of section 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance with section 60-6,196 or 60-6,197.

(b) Any bailable defendant described in this subsection shall be ordered released from custody pending judgment on his or her personal recognizance or under other conditions of release, other than payment of a bond, unless:

(i) The defendant has previously failed to appear in the instant case or any other case in the previous six months;

(ii) The judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required or that such a release could jeopardize the safety and maintenance of evidence or the safety of the defendant, victims, witnesses, or other persons; and

(iii) The defendant was arrested pursuant to a warrant.

(3) The court shall consider all methods of bond and conditions of release to avoid pretrial incarceration. If the judge determines that the defendant shall not be released on his or her personal recognizance, the judge shall consider the defendant's financial ability to pay a bond and shall impose the least onerous of the following conditions that will reasonably assure the defendant's appearance or that will eliminate or minimize the risk of harm to others or the public at large:

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

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

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

(i) The execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash of a sum not to exceed ten percent of the amount of the bond, ninety percent of such deposit to be returned to the defendant upon the performance of the appearance or appearances and ten percent

to be retained by the clerk as appearance bond costs, except that when no charge is subsequently filed against the defendant or if the charge or charges which are filed are dropped before the appearance of the defendant which the bond was to assure, the entire deposit shall be returned to the defendant. If the bond is subsequently reduced by the court after the original bond has been posted, no additional appearance bond costs shall be retained by the clerk. The difference in the appearance bond costs between the original bond and the reduced bond shall be returned to the defendant. In no event shall the deposit be less than twenty-five dollars. Whenever jurisdiction is transferred from a court requiring an appearance bond under this subdivision to another state court, the transferring court shall transfer the ninety percent of the deposit remaining after the appearance bond costs have been retained. No further costs shall be levied or collected by the court acquiring jurisdiction; or

(ii) The execution of a bail bond with such surety or sureties as shall seem proper to the judge or, in lieu of such surety or sureties, at the option of such person, a cash deposit of such sum so fixed, conditioned for his or her appearance before the proper court, to answer the offense with which he or she may be charged and to appear at such times thereafter as may be ordered by the proper court. The cash deposit shall be returned to the defendant upon the performance of all appearances.

(4) If the court requires the defendant to execute an appearance bond requiring the defendant to post money or requires the defendant to execute a bail bond, the court shall appoint counsel for the defendant if the court finds the defendant is financially unable to pay the amount required and is indigent.

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

(6) In order to assure compliance with the conditions of release referred to in subsection (3) of this section, the court may order a defendant to be supervised by a person, an organization, or a pretrial services program approved by the county board. A court shall waive any fees or costs associated with the conditions of release or supervision if the court finds the defendant is unable to pay for such costs. Eligibility for release or supervision by such pretrial release program shall under no circumstances be conditioned upon the defendant's ability to pay. While under supervision of an approved entity, and in addition to the conditions of release referred to in subsection (3) of this section, the court may impose the following conditions:

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

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

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

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

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

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

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

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

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

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

Sec. 8. Section 60-480, Revised Statutes Cumulative Supplement, 2020, is amended to read:

60-480 (1) Operators' licenses issued by the department pursuant to the Motor Vehicle Operator's License Act shall be classified as follows:

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

(b) Class M license. The operator's license or endorsement on a Class O

license, provisional operator's permit, learner's permit, school permit, or commercial driver's license which authorizes the person to whom it is issued to operate a motorcycle on highways;

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

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

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

(f) POP-provisional operator's permit. A motor vehicle operating permit with restrictions issued pursuant to section 60-4,120.01 to a person who is at least sixteen years of age but less than eighteen years of age which authorizes the person to operate any motor vehicle except a commercial motor vehicle or motorcycle;

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

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

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

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

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

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

(m) SEP-seasonal permit. A permit issued to a person who holds a restricted commercial driver's license authorizing the person to operate a commercial motor vehicle, as prescribed by section 60-4,146.01, for no more than one hundred eighty consecutive days in any twelve-month period. The seasonal permit shall be valid and run from the date of original issuance of the permit for one hundred eighty days and from the date of annual revalidation of the permit; ~~and~~

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

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

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

Sec. 9. Section 60-498.01, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

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

arrest, (b) that the person was requested to submit to the required test, and (c) that the person refused to submit to the required test. The director may accept a sworn report submitted electronically.

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

(4) On behalf of the director, the arresting peace officer submitting a sworn report under subsection (2) or (3) of this section shall serve notice of the revocation on the arrested person, and the revocation shall be effective fifteen days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The peace officer shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing or apply for an ignition interlock permit or a 24/7 sobriety program permit from the department. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the person's arrest or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the information form, the application for an ignition interlock permit, and the notice of revocation and shall provide them to law enforcement agencies.

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

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

(b) Upon receipt of the report, the director shall serve the notice of revocation on the arrested person by mail to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The director shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing and an application for an ignition interlock permit. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the mailing of the notice of revocation or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the ignition interlock permit application and the notice of revocation. The revocation shall be effective fifteen days after the date of mailing.

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

(6)(a) An arrested person's operator's license confiscated pursuant to subsection (4) of this section shall be automatically revoked upon the expiration of fifteen days after the date of arrest, and the petition requesting the hearing shall be completed and delivered to the department or postmarked within ten days after the person's arrest. An arrested person's operator's license confiscated pursuant to subsection (5) of this section shall be automatically revoked upon the expiration of fifteen days after the date of mailing of the notice of revocation by the director, and the arrested person shall postmark or return to the director a petition within ten days after the mailing of the notice of revocation if the arrested person desires an administrative license revocation hearing. The petition shall be in writing and

shall state the grounds on which the person is relying to prevent the revocation from becoming effective. The hearing and any prehearing conference may be conducted in person or by telephone, television, or other electronic means at the discretion of the director, and all parties may participate by such means at the discretion of the director.

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

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

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

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

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

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

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

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

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

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

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

(d) A person subject to administrative license revocation under sections 60-498.01 to 60-498.04 shall be eligible for a 24/7 sobriety program permit.

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

(a) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has no prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued: τ

(i) ~~The the~~ ignition interlock permit will be immediately available fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit; or

(ii) If such person is enrolled in a 24/7 sobriety program under the 24/7 Sobriety Program Act and has not violated any program conditions for drugs or alcohol after thirty consecutive days of testing, such person may apply for a 24/7 sobriety program permit as a condition of bail under the 24/7 Sobriety Program Act. Such permit shall expire at the same time as the later of any administrative license revocation being served as determined by section 60-498.02;

(b) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has

one or more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued; or

(i) The ignition interlock permit will be available beginning fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person plus forty-five additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit; or

(ii) If such person is enrolled in the 24/7 sobriety program under the 24/7 Sobriety Program Act and has not violated any program conditions for drugs or alcohol after thirty consecutive days of testing, such person may apply for a 24/7 sobriety program permit as a condition of bail under the 24/7 Sobriety Program Act any time after the expiration of the forty-five day no driving period referred to in subdivision (8)(b)(i) of this section;

(c) If such person refused to submit to a chemical test of blood, breath, or urine as required by section 60-6,197; or

(i) The ignition interlock permit will be available beginning fifteen days after the date of arrest plus ninety additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit; or and

(ii) If such person is enrolled in the 24/7 sobriety program under the 24/7 Sobriety Program Act and has not violated any program conditions for drugs or alcohol after thirty consecutive days of testing, the person may apply for a 24/7 sobriety program permit as a condition of bond under the 24/7 Sobriety Program Act any time after the expiration of the ninety-day no driving period referred to in subdivision (8)(c)(i) of this section. Such permit shall expire at the same time as the later of any administrative license revocation being served as determined by section 60-498.02; and

(d) Any person who petitions for an administrative license revocation hearing shall not be eligible for an ignition interlock permit or a 24/7 sobriety program permit unless ordered by the court at the time of sentencing for the related criminal proceeding.

(9) The director shall adopt and promulgate rules and regulations to govern the conduct of the administrative license revocation hearing and insure that the hearing will proceed in an orderly manner. The director may appoint a hearing officer to preside at the hearing, administer oaths, examine witnesses, take testimony, and report to the director. Any motion for discovery filed by the petitioner shall entitle the prosecutor to receive full statutory discovery from the petitioner upon a prosecutor's request to the relevant court pursuant to section 29-1912 in any criminal proceeding arising from the same arrest. A copy of the motion for discovery shall be filed with the department and a copy provided to the prosecutor in the jurisdiction in which the petitioner was arrested. Incomplete discovery shall not stay the hearing unless the petitioner requests a continuance. All proceedings before the hearing officer shall be recorded. Upon receipt of the arresting peace officer's sworn report, the director's order of revocation has prima facie validity and it becomes the petitioner's burden to establish by a preponderance of the evidence grounds upon which the operator's license revocation should not take effect. The director shall make a determination of the issue within seven days after the conclusion of the hearing. A person whose operator's license is revoked following a hearing requested pursuant to this section may appeal the order of revocation as provided in section 60-498.04.

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

(11) A person under the age of eighteen years who holds any license or permit issued under the Motor Vehicle Operator's License Act and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit or a 24/7 sobriety program permit.

Sec. 10. Section 60-4,115, Revised Statutes Cumulative Supplement, 2020, is amended to read:

60-4,115 (1) Fees for operators' licenses and state identification cards shall be collected by department personnel or the county treasurer and distributed according to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section and the 24/7 sobriety program permit and associated fees as outlined in subsection (5) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund.

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

Department

County of Motor State

Document	Total Fee	General Fund	Vehicles Cash Fund	General Fund
State identification card:				
Valid for 1 year or less	5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years	19.00	2.75	8.00	8.25
Valid for more than 4 years for person under 21	24.00	2.75	10.25	11.00
Valid for 5 years	24.00	3.50	10.25	10.25
Replacement	11.00	2.75	6.00	2.25
Class 0 or M operator's license:				
Valid for 1 year or less	5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years	19.00	2.75	8.00	8.25
Valid for 5 years	24.00	3.50	10.25	10.25
Bioptic or telescopic lens restriction:				
Valid for 1 year or less	5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Provisional operator's permit:				
Original	15.00	2.75	12.25	0
Bioptic or telescopic lens restriction:				
Valid for 1 year or less	5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years	15.00	2.75	12.25	0
Replacement	11.00	2.75	6.00	2.25

LB271 2021				LB271 2021
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
LPD-learner's permit:				
Original	8.00	.25	5.00	2.75
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
LPE-learner's permit:				
Original	8.00	.25	5.00	2.75
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
School permit:				
Original	8.00	.25	5.00	2.75
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Farm permit:				
Original or renewal	5.00	.25	0	4.75
Replacement	5.00	.25	0	4.75
Temporary	5.00	.25	0	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Driving permits:				
Employment	45.00	0	5.00	40.00
Medical hardship	45.00	0	5.00	40.00
Replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Commercial driver's license:				
Valid for 1 year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	5.00	15.25
Valid for more than 2 years but not more than 3 years	33.00	1.75	5.00	26.25
Valid for more than 3 years but not more than 4 years	44.00	1.75	5.00	37.25
Valid for 5 years	55.00	1.75	5.00	48.25
Bioptic or telescopic lens				

restriction:

Valid for one year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	5.00	15.25
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	10.00	1.75	5.00	3.25
CLP-commercial learner's permit:				
Original or renewal	10.00	.25	5.00	4.75
Replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75
Seasonal permit:				
Original or renewal	10.00	.25	5.00	4.75
Replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75

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

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

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

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

(5)(a) The fee for a 24/7 sobriety program permit shall be forty-five dollars. Twenty-five dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Fifteen dollars of the fee shall be remitted to the State Treasurer for credit to the General Fund. Five dollars of the fee shall be remitted to the State Treasurer for credit to the county general fund of the participant's county of residence.

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

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

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

Sec. 11. Section 60-6,197.05, Revised Statutes Cumulative Supplement,

2020, is amended to read:

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

Sec. 12. Section 60-6,197.06, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

(2) If such person has had a conviction under this section or under subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197, as such subsections existed prior to July 16, 2004, and operates a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to such conviction, such person shall be guilty of a Class IIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for an additional period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

Sec. 13. Section 60-6,211.11, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

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

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

(4) Any person who has applied for and received a 24/7 sobriety program permit and operates a motor vehicle when the person has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's blood or a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or who refuses a chemical test, shall be guilty of a Class III misdemeanor.

Sec. 14. Section 60-1513, Revised Statutes Cumulative Supplement, 2020, is amended to read:

60-1513 The Department of Motor Vehicles Cash Fund is hereby created. The fund shall be administered by the Director of Motor Vehicles. In addition to money credited or remitted to the fund, the fund may also receive reimbursement from counties. The fund shall be used by the Department of Motor Vehicles to carry out its duties as deemed necessary by the Director of Motor Vehicles, except that transfers from the fund to the General Fund or the Vehicle Title and Registration System Replacement and Maintenance Cash Fund may be made at the direction of the Legislature. Any money in the Department of Motor Vehicles Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer five million three hundred twenty-five thousand dollars from the Department of Motor Vehicles Cash Fund to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund on or

before June 30, 2017, as directed by the budget administrator of the budget division of the Department of Administrative Services.

Sec. 15. This act becomes operative on July 1, 2022.

Sec. 16. Original sections 29-901, 60-480, 60-498.01, 60-4,115, 60-6,197.05, 60-6,197.06, 60-6,211.11, and 60-1513, Revised Statutes Cumulative Supplement, 2020, are repealed.