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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **2111**

03/10/2021 Authored by Koegel

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; establishing a program of random testing to verify
1.3 abstinence as a condition of release and probation for certain DWI offenses;
1.4 amending Minnesota Statutes 2020, sections 169A.277, subdivision 2; 169A.44,
1.5 subdivisions 1, 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2020, section 169A.277, subdivision 2, is amended to read:

1.8 Subd. 2. **Monitoring required.** (a) When the court sentences a person described in
1.9 subdivision 1 for a violation of section 169A.20, subdivision 1, clause (1), (5), or (6), or 2,
1.10 clause (1), to a stayed sentence and when electronic monitoring equipment is available to
1.11 the court, the court shall require that the person participate in a program of electronic alcohol
1.12 monitoring in addition to any other conditions of probation or jail time it imposes. The court
1.13 must order the monitoring for a minimum of 30 consecutive days during each year of the
1.14 person's probationary period.

1.15 (b) When the court sentences a person described in subdivision 1 for a violation of
1.16 section 169A.20, subdivision 1, clause (1), (5), or (6), or 2, clause (1), to a stayed sentence
1.17 and when electronic alcohol-monitoring equipment is not available to the court, the court
1.18 shall require that the person submit to random alcohol tests in addition to any other conditions
1.19 of probation or jail time it imposes. The court must order the random alcohol tests for a
1.20 minimum of 30 consecutive days during each year of the person's probationary period.

1.21 (c) When the court sentences a person described in subdivision 1 for a violation of section
1.22 169A.20, subdivision 1, clause (2), (3), (4), or (7), or 2, clause (2), to a stayed sentence, the
1.23 court shall require that the person submit to random urine analyses in addition to any other

2.1 conditions of probation or jail time it imposes. The court must order the random urine
2.2 analyses for a minimum of 30 consecutive days during each year of the person's probationary
2.3 period.

2.4 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to sentences
2.5 imposed on or after that date.

2.6 Sec. 2. Minnesota Statutes 2020, section 169A.44, subdivision 1, is amended to read:

2.7 Subdivision 1. **Nonfelony violations.** (a) This subdivision applies to a person charged
2.8 with a nonfelony violation of section 169A.20 (driving while impaired) under circumstances
2.9 described in section 169A.40, subdivision 3 (certain DWI offenders; custodial arrest).

2.10 (b) Unless maximum bail is imposed under section 629.471, a person described in
2.11 paragraph (a) may be released from detention only if the person agrees to the following
2.12 conditions pending resolution of the charge:

2.13 (1) abstain from alcohol;

2.14 (2) abstain from intoxicating substances and controlled substances other than use in
2.15 accordance with a valid prescription; and

2.16 ~~(2) (3) submit to a program of electronic alcohol monitoring, involving at least daily~~
2.17 ~~measurements of the person's alcohol concentration, pending resolution of the charge to~~
2.18 ~~monitor that abstinence.~~

2.19 (c) The program required under paragraph (b), clause (3), shall consist of:

2.20 ~~Clause (2) applies only when~~ (1) electronic alcohol monitoring, involving at least daily
2.21 measurements of the person's alcohol concentration when the person is charged with a
2.22 violation of section 169A.20, subdivision 1, clause (1), (5), or (6), or 2, clause (1), and
2.23 electronic alcohol-monitoring equipment is available to the court;

2.24 (2) random alcohol tests at least weekly when the person is charged with a violation of
2.25 section 169A.20, subdivision 1, clause (1), (5), or (6), or 2, clause (1), and electronic
2.26 alcohol-monitoring equipment is not available to the court; or

2.27 (3) random urine analyses at least weekly when the person is charged with a violation
2.28 of section 169A.20, subdivision 1, clause (2), (3), (4), or (7), or 2, clause (2).

2.29 (d) The court shall require partial or total reimbursement from the person for the cost
2.30 of the electronic alcohol-monitoring, to the extent the person is able to pay.

3.1 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to conditions
3.2 of release imposed on or after that date.

3.3 Sec. 3. Minnesota Statutes 2020, section 169A.44, subdivision 2, is amended to read:

3.4 Subd. 2. **Felony violations.** (a) A person charged with violating section 169A.20 within
3.5 ten years of the first of three or more qualified prior impaired driving incidents may be
3.6 released from detention only if the following conditions are imposed:

3.7 (1) the conditions described in subdivision 1, paragraph (b), if applicable;

3.8 (2) the impoundment of the registration plates of the vehicle used to commit the violation,
3.9 unless already impounded;

3.10 (3) if the vehicle used to commit the violation was an off-road recreational vehicle or a
3.11 motorboat, the impoundment of the off-road recreational vehicle or motorboat;

3.12 (4) a requirement that the person report weekly to a probation agent;

3.13 (5) a requirement that the person abstain from consumption of alcohol and intoxicating
3.14 substances and controlled substances other than use in accordance with a valid prescription
3.15 and submit to ~~random alcohol tests or urine analyses at least weekly~~ a program to monitor
3.16 that abstinence;

3.17 (6) a requirement that, if convicted, the person reimburse the court or county for the
3.18 total cost of these services; and

3.19 (7) any other conditions of release ordered by the court.

3.20 (b) In addition to setting forth conditions of release under paragraph (a), if required by
3.21 court rule, the court shall also fix the amount of money bail without other conditions upon
3.22 which the defendant may obtain release.

3.23 (c) The program required under paragraph (a), clause (5), shall consist of:

3.24 (1) electronic alcohol monitoring, involving at least daily measurements of the person's
3.25 alcohol concentration when the person is charged with a violation of section 169A.20,
3.26 subdivision 1, clause (1), (5), or (6), or 2, clause (1), and electronic alcohol-monitoring
3.27 equipment is available to the court;

3.28 (2) random alcohol tests at least weekly when the person is charged with a violation of
3.29 section 169A.20, subdivision 1, clause (1), (5), or (6), or 2, clause (1), and electronic
3.30 alcohol-monitoring equipment is not available to the court; or

4.1 (3) random urine analyses at least weekly when the person is charged with a violation
4.2 of section 169A.20, subdivision 1, clause (2), (3), (4), or (7), or 2, clause (2).

4.3 (d) The court shall require partial or total reimbursement from the person for the cost
4.4 of the electronic alcohol monitoring, to the extent the person is able to pay.

4.5 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to conditions
4.6 of release established on or after that date.