

HOUSE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
OR DRUGS; PROVIDING CONDITIONS FOR RELEASE ON BAIL OR PERSONAL
RECOGNIZANCE; PROVIDING FOR A SOBRIETY MONITORING PROGRAM;
REQUIRING RULEMAKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] REPEAT OFFENDERS--CONDITION OF
RELEASE ON BAIL OR PERSONAL RECOGNIZANCE--SOBRIETY MONITORING--
FEE.--

A. A court shall require a person who has been
charged with a violation of Section 66-8-102 NMSA 1978, and who
was previously convicted of a violation of that section or was
previously adjudicated as a delinquent on the basis of
Subparagraph (a) of Paragraph (1) of Subsection A of Section
32A-2-3 NMSA 1978 and who seeks release on bail or personal

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1 recognizance, to:

2 (1) refrain from all consumption, ingestion or
3 other use of intoxicating liquor or drugs, except drugs legally
4 prescribed for the person; and

5 (2) participate in a sobriety monitoring
6 program as provided in Subsection B of this section, if a
7 program is available, until the charge is disposed by the
8 court.

9 B. A sobriety monitoring program shall require a
10 participant to wear on the participant's body a court-approved
11 sobriety monitoring device that continuously monitors the level
12 of and reports the presence of intoxicating liquor or drugs in
13 the participant's body. The participant may be required to pay
14 any costs associated with the sobriety monitoring device on a
15 sliding-fee scale.

16 C. A report from a sobriety monitoring device that
17 indicates the presence of intoxicating liquor or drugs in a
18 participant's body shall be provided, as soon as practicable
19 and within twenty-four hours, to the relevant district attorney
20 for immediate referral to the court. Upon receipt of a report
21 from a district attorney, the court may:

22 (1) if it is the participant's first report,
23 revise the participant's conditions of release to include a
24 community-based supervision program, if a program is available,
25 which requires a participant to wear an electronic location

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1 monitoring device on the participant's body. The participant
2 may be required to pay any costs associated with the electronic
3 location monitoring device;

4 (2) if it is the participant's second report,
5 order the participant to complete an alcohol or drug abuse
6 screening program approved by the department of finance and
7 administration and, if necessary, a treatment program approved
8 by the court; and

9 (3) if it is the participant's third report,
10 withdraw the court's order that granted the participant's
11 release on bail or personal recognizance.

12 D. The period of time during which a person
13 participates in a sobriety monitoring program shall be credited
14 as time served toward any sentence imposed by the court for a
15 charge pursuant to Subsection A of this section.

16 E. The supreme court shall promulgate rules to
17 implement the provisions of this section.

18 SECTION 2. APPLICABILITY.--The provisions of this act
19 apply to offenses committed on or after July 1, 2017.

20 SECTION 3. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2017.