



May 19, 2025

The Honorable Robin Weisz
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: Section 12 of House Bill 1003

Dear Speaker Weisz:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed House Bill 1003 and filed it with the Secretary of State. I also have vetoed Section 12 of HB 1003.

The North Dakota Constitution authorizes the governor to veto items in an appropriation bill. House Bill 1003 is an appropriation bill for the expenses of the attorney general, and Section 12, relating to 24/7 sobriety program fees, is an item in the appropriation bill. Section 12 was not in HB 1003 when the bill was introduced. Section 12 was a standalone measure introduced as Senate Bill 2365, which went through the legislative process and ultimately failed in the House. It has been resurrected as Section 12 in House Bill 1003, but the failings of this policy remain: It invites a constitutional challenge and will only increase costs and jail overcrowding for counties.

Currently, a district court judge has the flexibility to waive the costs for an individual participating in the 24/7 sobriety program. Section 12 prohibits a judge from waiving these fees, even in cases of hardship or indigency. One reason for allowing a judge to waive the fees is to protect the program from constitutional challenge. If the fee is not waivable, the individual is found not guilty, and the fee is not refunded, the fee becomes a pretrial punishment. This gives an individual grounds for challenging the program because the Constitution protects individuals from being punished for a crime prior to conviction.

Today, the 24/7 program fees are only waivable if a judge issues a finding of hardship. This is a similar process used when a judge finds an individual indigent, which is not an arbitrary decision. By removing the flexibility to waive the 24/7 fees, an indigent individual will be held in pre-trial custody for the inability to pay, likely with an added unaffordable bond. This would require the indigent individual to be placed in custody until the resolution of their case. This will have an adverse effect on counties, becoming far more expensive than the 24/7 program itself and contributing to the overcrowding of county jails.

Section 12 is a previously rejected policy item logrolled into an appropriation bill. This legislative maneuver does not restrict the executive's line-item veto authority. To do so would force the executive to choose between accepting a standalone policy item or risking the entire appropriation for a state agency. Allowing the Assembly to shoehorn general substantive policy provisions into an appropriation bill, while not simultaneously allowing the executive to veto those provisions, would undermine our system of checks and balances, and violate the longstanding principle of separation of powers.

For the reasons said above, Section 12 of House Bill 1003 is vetoed.

Sincerely,



Kelly Armstrong
Governor