

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 1002
Apr 25, 2019
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10583-MLf-127

Short Title: Expand Use of CAM Systems & Create CAM Fund. (Public)

Sponsors: Representative Rogers.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS
3 IN PUNISHMENTS IMPOSED FOR CERTAIN IMPAIRED DRIVING CONVICTIONS,
4 TO PROVIDE FOR THE PAYMENT OF AN ADMINISTRATIVE FEE AND COSTS
5 ASSOCIATED WITH A CONTINUOUS ALCOHOL MONITORING SYSTEM, AND TO
6 CREATE A CONTINUOUS ALCOHOL MONITORING SYSTEM FUND TO ASSIST
7 INDIGENT DEFENDANTS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 20-179 reads as rewritten:

10 "§ 20-179. Sentencing hearing after conviction for impaired driving; determination of
11 grossly aggravating and aggravating and mitigating factors; punishments.

12 ...

13 (g) Level One Punishment. – A defendant subject to Level One punishment may be fined
14 up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment that
15 includes a minimum term of not less than 30 days and a maximum term of not more than 24
16 months. The term of imprisonment may be suspended only if a condition of special probation is
17 imposed to require the defendant to serve a term of imprisonment of at least 30 days. ~~A judge
18 may reduce the minimum term of imprisonment required to a term of not less than 10 days if a
19 condition of special probation is imposed to require that a defendant abstain from alcohol
20 consumption and be monitored by a continuous alcohol monitoring system, of a type approved
21 by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, for
22 a period of not less than 120 days. days or to abstain from alcohol consumption and be monitored
23 by a continuous alcohol monitoring system, of a type approved by the Division of Adult
24 Correction and Juvenile Justice of the Department of Public Safety, for a period of not less than
25 120 days. If a judge orders the term of imprisonment ordered as a condition of special probation
26 to be served as an inpatient pursuant to subsection (k1) of this section, the judge shall impose an
27 additional condition of special probation to require that the defendant abstain from alcohol
28 consumption and be monitored by a continuous alcohol monitoring system, of a type approved
29 by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, for
30 a period of not less than 60 days. If the defendant is monitored on an approved continuous alcohol
31 monitoring system during the pretrial period, up to ~~60~~ 120 days of pretrial monitoring may be
32 credited against the 120-day any monitoring requirement for probation. If the defendant is placed
33 on probation, the judge shall impose a requirement that the defendant obtain a substance abuse
34 assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a
35 driver's license and as a condition of probation. The judge may impose any other lawful condition
36 of probation.~~



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1 (h) Level Two Punishment. – A defendant subject to Level Two punishment may be fined
2 up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that
3 includes a minimum term of not less than seven days and a maximum term of not more than 12
4 months. The term of imprisonment may be suspended only if a condition of special probation is
5 imposed to require the defendant to serve a term of imprisonment of at least ~~seven~~ 14 days or to
6 abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous
7 alcohol monitoring system, of a type approved by the Division of Adult Correction and Juvenile
8 Justice of the Department of Public Safety. If a judge orders the term of imprisonment ordered
9 as a condition of special probation to be served as an inpatient pursuant to subsection (k1) of this
10 section, the judge shall impose an additional condition of special probation to require that the
11 defendant abstain from alcohol consumption and be monitored by a continuous alcohol
12 monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice
13 of the Department of Public Safety, for a period of not less than 30 days. If the defendant is
14 subject to Level Two punishment based on a finding that the grossly aggravating factor in
15 subdivision (1) or (2) of subsection (c) of this section applies, the conviction for a prior offense
16 involving impaired driving occurred within five years before the date of the offense for which
17 the defendant is being sentenced and the judge suspends all active terms of imprisonment and
18 imposes abstention from alcohol as verified by a continuous alcohol ~~monitory~~ monitoring system,
19 then the judge must also impose as an additional condition of special probation that the defendant
20 must complete 240 hours of community service. If the defendant is monitored on an approved
21 continuous alcohol monitoring system during the pretrial period, up to ~~60~~ 90 days of pretrial
22 monitoring may be credited against ~~the 90-day~~ any monitoring requirement for probation. If the
23 defendant is placed on probation, the judge shall impose a requirement that the defendant obtain
24 a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the
25 restoration of a driver's license and as a condition of probation. The judge may impose any other
26 lawful condition of probation.

27 (h1) The judge may impose, as a condition of probation for defendants subject to Level
28 One or Level Two punishments, that the defendant abstain from alcohol consumption for a
29 ~~minimum of 30 days, to a maximum of~~ the term of probation, as verified by a continuous alcohol
30 monitoring system. The defendant's abstinence from alcohol shall be verified by a continuous
31 alcohol monitoring system of a type approved by the Division of Adult Correction and Juvenile
32 Justice of the Department of Public Safety.

33 ...

34 (k4) Continuous Alcohol Monitoring During Probation. – Notwithstanding the provisions
35 of subsections (g), (h), (k2), and (k3) of this section, if the court finds, upon good cause shown,
36 that the defendant should not be required to pay the costs of the continuous alcohol monitoring
37 system, the court shall not impose the use of a continuous alcohol monitoring system unless ~~the~~
38 one of the following conditions is met:

39 (1) The local governmental entity responsible for the incarceration of the
40 defendant in the local confinement facility agrees to pay the costs of the
41 system.

42 (2) The court orders the Division of Adult Correction and Juvenile Justice of the
43 Department of Public Safety to pay the costs of the system pursuant to
44 G.S. 20-179.5.

45 ...

46 (r) Supervised Probation Terminated. – Unless a judge in the judge's discretion
47 determines that supervised probation is necessary, and includes in the record that the judge has
48 received evidence and finds as a fact that supervised probation is necessary, and states in the
49 judgment that supervised probation is necessary, a defendant convicted of an offense of impaired
50 driving shall be placed on unsupervised probation if the defendant meets three conditions. These
51 conditions are that the defendant (i) has not been convicted of an offense of impaired driving

1 within the seven years preceding the date of this offense for which the defendant is sentenced,
2 (ii) is being sentenced under subsections (i), (j), and (k) of this section, and (iii) has obtained any
3 necessary substance abuse assessment and completed any recommended treatment or training
4 ~~program-program, including any recommendation that the defendant abstain from alcohol~~
5 consumption and be monitored by a continuous alcohol monitoring system approved by the
6 Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

7 When a judge determines in accordance with the above procedures that a defendant should
8 be placed on supervised probation, the judge shall authorize the probation officer to modify the
9 defendant's probation by placing the defendant on unsupervised probation upon the completion
10 by the defendant of any of the following conditions of the suspended sentence:

11 (1) ~~Community service; or~~ service.

12 ...

13 (3) Payment of any fines, court costs, and ~~fees; or~~ fees.

14 (4) Any combination of these conditions.

15"

16 **SECTION 2.** Article 3 of Chapter 20 of the General Statutes is amended by adding
17 a new section to read:

18 **"§ 20-179.5. Continuous alcohol monitoring; administrative fee and costs for monitoring;**
19 **Continuous Alcohol Monitoring Fund.**

20 (a) The costs incurred in order to comply with the continuous alcohol monitoring
21 requirements imposed by the court pursuant to this Article, including costs for monitoring of the
22 continuous alcohol monitoring device, shall be paid by the person ordered to be monitored. The
23 person also shall pay a continuous alcohol monitoring administrative fee in an amount which
24 shall be determined by the Division of Adult Correction and Juvenile Justice of the Department
25 of Public Safety and which shall be not less than twenty dollars (\$20.00) nor more than thirty
26 dollars (\$30.00). The administrative fee shall be collected at the time the person receives the
27 monitoring equipment from the vendor providing the continuous alcohol monitoring. Costs for
28 continuous alcohol monitoring shall be collected under terms agreed upon by the vendor and the
29 person required to be monitored.

30 (b) The vendor shall remit fees collected pursuant to subsection (a) of this section to the
31 Division of Adult Correction and Juvenile Justice of the Department of Public Safety on a
32 quarterly basis. Fifty percent (50%) of the fees collected shall be used to pay costs incurred by
33 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in
34 ensuring compliance with the continuous alcohol monitoring requirements imposed by the court;
35 the remaining fifty percent (50%) of the fees shall be deposited in the Continuous Alcohol
36 Monitoring Fund.

37 (c) There is created in the Department of Public Safety the Continuous Alcohol
38 Monitoring Fund to be used for the purpose of providing access to continuous alcohol monitoring
39 as a sentencing option to persons deemed by the court to be indigent. If the court determines that
40 continuous alcohol monitoring should be ordered and the convicted person is unable to pay for
41 the continuous alcohol monitoring, the court may order that the Division of Adult Correction and
42 Juvenile Justice of the Department of Public Safety pay the cost of the continuous alcohol
43 monitoring for the period of time required by the court."

44 **SECTION 3.** This act becomes effective December 1, 2019, and applies to offenses
45 committed on or after that date.