

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1002
Committee Substitute Favorable 5/3/19
Third Edition Engrossed 5/7/19

Short Title: Expand Use of CAM Systems.

(Public)

Sponsors:

Referred to:

April 29, 2019

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS
IN PUNISHMENTS IMPOSED FOR CERTAIN IMPAIRED DRIVING CONVICTIONS
AND TO PROVIDE FOR THE PAYMENT OF AN ADMINISTRATIVE FEE AND
COSTS ASSOCIATED WITH A CONTINUOUS ALCOHOL MONITORING SYSTEM,
AND TO CREATE A CONTINUOUS ALCOHOL MONITORING SYSTEM FUND TO
ASSIST INDIGENT DEFENDANTS.

The General Assembly of North Carolina enacts:

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

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

...

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



1 driver's license and as a condition of probation. The judge may impose any other lawful condition
2 of probation.

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

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

35 ...

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

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

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

47 ...

48 (r) Supervised Probation Terminated. – Unless a judge in the judge's discretion
49 determines that supervised probation is necessary, and includes in the record that the judge has
50 received evidence and finds as a fact that supervised probation is necessary, and states in the
51 judgment that supervised probation is necessary, a defendant convicted of an offense of impaired

1 driving shall be placed on unsupervised probation if the defendant meets three conditions. These
2 conditions are that the defendant (i) has not been convicted of an offense of impaired driving
3 within the seven years preceding the date of this offense for which the defendant is sentenced,
4 (ii) is being sentenced under subsections (i), (j), and (k) of this section, and (iii) has obtained any
5 necessary substance abuse assessment and completed any recommended treatment or training
6 ~~program-program, including any recommendation that the defendant abstain from alcohol~~
7 ~~consumption and be monitored by a continuous alcohol monitoring system approved by the~~
8 ~~Division of Adult Correction and Juvenile Justice of the Department of Public Safety.~~

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

- 13 (1) Community ~~service; or~~ service.
14 ...
15 (3) Payment of any fines, court costs, and ~~fees; or~~ fees.
16 (4) Any combination of these conditions.

17"

18 **SECTION 1.5.** Article 3 of Chapter 20 of the General Statutes is amended by adding
19 a new section to read:

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

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

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

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

46 **SECTION 2.** This act becomes effective December 1, 2019, and applies to offenses
47 committed on or after that date.