

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 1002

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

Sponsors: Representative Rogers.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

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, 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 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~~ 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 2.** 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 3.** This act becomes effective December 1, 2019, and applies to offenses  
 47 committed on or after that date.