

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 299  
Judiciary Committee Substitute Adopted 4/4/17  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S299-PCS45470-TUxf-26

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

(Public)

Sponsors:

Referred to:

March 16, 2017

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



1 (h) Level Two Punishment. – A defendant subject to Level Two punishment may be  
2 fined 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 of the  
8 Department of Public Safety. If a judge orders the term of imprisonment ordered as a condition  
9 of special probation to be served as an inpatient pursuant to subsection (k1) of this section, the  
10 judge shall impose an additional condition of special probation to require that the defendant  
11 abstain from alcohol consumption and be monitored by a continuous alcohol monitoring  
12 system, of a type approved by the Division of Adult Correction of the Department of Public  
13 Safety, for a period of not less than 30 days. If the defendant is subject to Level Two  
14 punishment based on a finding that the grossly aggravating factor in subdivision (1) or (2) of  
15 subsection (c) of this section applies, the conviction for a prior offense involving impaired  
16 driving occurred within five years before the date of the offense for which the defendant is  
17 being sentenced and the judge suspends all active terms of imprisonment and imposes  
18 abstinence from alcohol as verified by a continuous alcohol ~~monitory~~ monitoring system, then  
19 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  
24 obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6  
25 for the restoration of a driver's license and as a condition of probation. The judge may impose  
26 any other 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  
30 alcohol monitoring system. The defendant's abstinence from alcohol shall be verified by a  
31 continuous alcohol monitoring system of a type approved by the Division of Adult Correction  
32 of the Department of Public Safety.

33 ...

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

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

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

43 ...

44 (r) Supervised Probation Terminated. – Unless a judge in his or her discretion  
45 determines that supervised probation is necessary, and includes in the record that he or she has  
46 received evidence and finds as a fact that supervised probation is necessary, and states in his or  
47 her judgment that supervised probation is necessary, a defendant convicted of an offense of  
48 impaired driving shall be placed on unsupervised probation if he or she meets three conditions.  
49 These conditions are that he or she has not been convicted of an offense of impaired driving  
50 within the seven years preceding the date of this offense for which he or she is sentenced, that  
51 the defendant is sentenced under subsections (i), (j), and (k) of this section, and has obtained

1 any necessary substance abuse assessment and completed any recommended treatment or  
2 training ~~program~~program, including any recommendation that the defendant abstain from  
3 alcohol consumption and be monitored by a continuous alcohol monitoring system approved by  
4 the Division of Adult Correction of the Department of Public Safety.

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

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

10 ...

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

12 (4) Any combination of these conditions.

13 ...."

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

16 **"§ 20-179.5. Continuous alcohol monitoring; administrative fee and costs for monitoring;**  
17 **Continuous Alcohol Monitoring Fund.**

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

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

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

41 **SECTION 3.** This act becomes effective December 1, 2017, and applies to  
42 offenses committed on or after that date.