

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 22-055

BY SENATOR(S) Cooke and Hansen, Bridges, Buckner, Danielson, Donovan, Gonzales, Jaquez Lewis, Lee, Moreno, Pettersen, Story; also REPRESENTATIVE(S) Roberts and McKean, Amabile, Bernett, Bird, Geitner, Jodeh, Kipp, Lindsay, Lontine, Michaelson Jenet, Mullica, Pico, Ricks, Soper, Valdez A., Valdez D., Van Winkle, Will, Young.

CONCERNING INCREASED ALCOHOL MONITORING FOR IMPAIRED DRIVING OFFENDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 42-2-132.5, **amend** (4)(a)(I) and (4)(a)(II)(A) as follows:

42-2-132.5. Mandatory and voluntary restricted licenses following alcohol convictions - rules. (4) **Persons who may acquire an interlock-restricted license prior to serving a full-term revocation.** (a) (I) A person whose privilege to drive has been revoked for one year or more because of a DUI, DUI per se, or DWAI conviction or has been revoked for one year or more for excess BAC ~~under any provision of~~ PURSUANT TO section 42-2-126 may apply for an early reinstatement with

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

an interlock-restricted license ~~under the provisions of~~ PURSUANT TO this section ~~after the person's privilege to drive has been revoked for one month~~ AT ANY TIME; except that a person who is less than twenty-one years of age at the time of the offense may not apply for early reinstatement until ~~his or her~~ THE PERSON'S license has been revoked for one year. A person whose privilege to drive has been revoked for one year or more because of a refusal may apply for an early reinstatement with an interlock-restricted license ~~under the provisions of~~ PURSUANT TO this section after the person's privilege to drive has been revoked for two months; except that a person who is less than twenty-one years of age at the time of the offense may not apply for early reinstatement until ~~his or her~~ THE PERSON'S license has been revoked for one year. Except for first-time offenders as provided in ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (4)(a)(II) OF THIS SECTION or for persistent drunk drivers as provided in subsection (3) of this section, the restrictions imposed pursuant to this section ~~shall~~ remain in effect for the longer of one year or the total time period remaining on the license restraint prior to early reinstatement.

(II) (A) **First-time offender eligibility.** For revocations for convictions for DUI or DUI per se ~~under~~ PURSUANT TO section 42-2-125 (1)(b.5) or for excess BAC 0.08 ~~under~~ PURSUANT TO section 42-2-126 (3)(a)(I) for a first violation that requires only a nine-month revocation, a person twenty-one years of age or older at the time of the offense may apply for an early reinstatement with an interlock-restricted license ~~under the provisions of~~ PURSUANT TO this section ~~after the person's privilege to drive has been revoked for at least one month~~ AT ANY TIME. Except as provided in subsection (3) of this section and ~~sub-subparagraph (B) of this subparagraph (H)~~ SUBSECTION (4)(a)(II)(B) OF THIS SECTION, the restrictions imposed pursuant to this ~~subparagraph (H) shall~~ SUBSECTION (4)(a)(II) remain in effect for ~~at least eight months~~ THE TOTAL TIME PERIOD REMAINING ON THE LICENSE RESTRAINT PRIOR TO EARLY REINSTATEMENT.

SECTION 2. In Colorado Revised Statutes, 42-4-1307, **amend** (6.5)(c)(II), (7) introductory portion, (7)(b)(VI), and (13); and **add** (2)(a.7) as follows:

42-4-1307. Penalties for traffic offenses involving alcohol and drugs - legislative declaration - definitions - repeal. (2) Definitions. As used in this section, unless the context otherwise requires:

(a.7) "CONTINUOUS ALCOHOL MONITORING" MEANS MONITORING THE ALCOHOL CONTENT IN A PERSON BY USING A DEVICE OR INSTRUMENT THAT IS ATTACHED TO THE PERSON AND DESIGNED TO AUTOMATICALLY TEST THE ALCOHOL CONTENT IN THE PERSON BY CONTACT WITH THE PERSON'S SKIN AT LEAST ONCE EVERY ONE-HALF HOUR REGARDLESS OF THE PERSON'S LOCATION, AND WHICH DETECTS THE PRESENCE OF ALCOHOL IN A PERSON AND WHETHER A PERSON ATTEMPTS TO TAMPER WITH, OBSTRUCT, OR REMOVE THE DEVICE.

(6.5) **Felony offenses.** (c) Additionally, if the court sentences the defendant to a term of probation as provided by section 18-1.3-202, then, as a condition of probation, the court shall:

(II) Sentence the defendant in accordance with subsection (7)(b) of this section, INCLUDING REQUIRING THE PERSON TO SUBMIT TO CONTINUOUS ALCOHOL MONITORING FOR AT LEAST NINETY DAYS AS DESCRIBED IN SUBSECTION (7)(b)(VI)(B) OF THIS SECTION.

(7) **Probation-related penalties.** When a person is sentenced to a period of probation pursuant to ~~subparagraph (IV) of paragraph (a) of subsection (5) of this section or subparagraph (IV) of paragraph (a) of subsection (6)~~ SUBSECTION (5)(a)(IV) OR (6)(a)(IV) of this section:

(b) The court:

(VI) (A) May require ~~the~~ A person SENTENCED FOR A SECOND OFFENSE PURSUANT TO SUBSECTION (5)(a)(IV) OF THIS SECTION to submit to continuous alcohol monitoring using ~~such~~ technology or devices ~~as are~~ available to the court for ~~such~~ THAT purpose; EXCEPT THAT THE COURT SHALL NOT REQUIRE CONTINUOUS ALCOHOL MONITORING IF THE COURT FINDS THAT REQUIRING MONITORING IS NOT IN THE BEST INTERESTS OF JUSTICE, AND THE COURT ENTERS THAT FINDING IN THE RECORD, OR IF THE PERSON'S RESIDENCE IS IN AN AREA WHERE THE PERSON CANNOT REASONABLY ACQUIRE A CONTINUOUS ALCOHOL MONITORING DEVICE; and

(B) SHALL REQUIRE A PERSON SENTENCED FOR A THIRD OR SUBSEQUENT OFFENSE PURSUANT TO SUBSECTION (6)(a)(IV) OF THIS SECTION TO SUBMIT TO CONTINUOUS ALCOHOL MONITORING FOR AT LEAST NINETY DAYS USING TECHNOLOGY OR DEVICES AVAILABLE TO THE COURT FOR THAT PURPOSE; EXCEPT THAT THE COURT SHALL NOT REQUIRE

CONTINUOUS ALCOHOL MONITORING IF THE COURT FINDS THAT REQUIRING MONITORING IS NOT IN THE BEST INTERESTS OF JUSTICE, AND THE COURT ENTERS THAT FINDING IN THE RECORD, OR IF THE PERSON'S RESIDENCE IS IN AN AREA WHERE THE PERSON CANNOT REASONABLY ACQUIRE A CONTINUOUS ALCOHOL MONITORING DEVICE; AND

(13) **Alcohol and drug evaluation and supervision costs.** (a) In addition to any fines, fees, or costs levied against a person convicted of DUI, DUI per se, DWAI, or UDD, the judge shall assess each such person for the cost of the presentence or postsentence alcohol and drug evaluation and supervision services.

(b) A PERSON REQUIRED TO SUBMIT TO CONTINUOUS ALCOHOL MONITORING SHALL PAY THE COSTS OF MONITORING UNLESS THE COURT DETERMINES THAT THE PERSON IS UNABLE TO PAY THE COSTS. IF THE COURT DETERMINES THAT THE PERSON IS UNABLE TO PAY THE COSTS OF CONTINUOUS ALCOHOL MONITORING, THE JUDICIAL DISTRICT'S PROBATION DEPARTMENT SHALL PAY THE COSTS OF MONITORING. THE COURT SHALL PRESUME THAT A PERSON REPRESENTED BY COURT-APPOINTED COUNSEL IS UNABLE TO PAY FOR MONITORING SERVICES.

SECTION 3. In Colorado Revised Statutes, 16-11-214, **amend** (1)(a) as follows:

16-11-214. Fund created - probation services. (1) (a) There is created in the state treasury the offender services fund to which must be credited one hundred percent of any cost of care payments or probation supervision fees paid to the state pursuant to section 18-1.3-204 (2)(a)(V) or 19-2.5-1120 and from which the general assembly shall make annual appropriations for administrative and personnel costs for adult and juvenile probation services, as well as for adjunct adult and juvenile probation services in the judicial department, including treatment services; contract services; drug and alcohol treatment services, INCLUDING CONTINUOUS ALCOHOL MONITORING; and program development, and for associated administrative and personnel costs. Any money remaining in the fund at the end of any fiscal year does not revert to the general fund.

SECTION 4. Appropriation. (1) For the 2022-23 state fiscal year, \$517,292 is appropriated to the judicial department. This appropriation is from the offender services fund created in section 16-11-214 (1)(a), C.R.S.

To implement this act, the department may use this appropriation as follows:

(a) \$502,092 for use by probation and related services for probation programs, which amount is based on an assumption that the division will require an additional 1.3 FTE; and

(b) \$15,200 for use by courts administration for capital outlay.

(2) For the 2022-23 state fiscal year, \$10,294 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$808 for use by the executive director's office for personal services related to administration and support;

(b) \$8,100 for use by the division of motor vehicles for DRIVES maintenance and support; and

(c) \$1,386 for the purchase of information technology services.

(3) For the 2022-23 state fiscal year, \$1,386 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of revenue under subsection (2)(c) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of revenue.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed on or after January 1, 2023.

Steve Fenberg
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO