



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 22-0356	Date:	February 14, 2022
Prime Sponsors:	Sen. Cooke; Hansen Rep. Roberts; McKean	Bill Status:	Senate Judiciary
		Fiscal Analyst:	Aaron Carpenter 303-866-4918 Aaron.Carpenter@state.co.us

Bill Topic: **ALCOHOL MONITORING FOR IMPAIRED DRIVING OFFENDERS**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill makes changes to state law related to reinstatement of an interlock-restricted driver license and requires continuous alcohol monitoring for repeat and felony impaired driving offenders sentenced to probation. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$527,586 to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under SB 22-055**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$10,294	-
	Cash Funds	\$517,292	\$976,520
	Centrally Appropriated	\$46,180	\$82,305
	Total Expenditures	\$573,766	\$1,058,825
	Total FTE	1.3 FTE	2.1 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$1,544	-

Summary of Legislation

Reinstatement with an interlock-restricted license. The bill allows an adult whose driver license has been revoked because of a conviction for driving under the influence (DUI), DUI per se, driving while ability impaired (DWAI), or excess blood alcohol content to apply for reinstatement with an interlock-restricted license at any time. Under current law, they must wait until the license has been revoked for one month before applying for reinstatement. This change applies to people whose license has been revoked for a year or more, or 9 months for a first offense.

Continuous alcohol monitoring. Under current law, a court may order continuous alcohol monitoring for a person sentenced for a second or subsequent DUI or DWAI related charge. The bill requires that if a defendant is sentenced to probation for a felony or third or subsequent offense related to DUI or DWAI, the sentence must include continuous alcohol monitoring (CAM) for at least 90 days. The court may not require continuous alcohol monitoring if it is not in the best interests of justice or if the person's residence is in an area where the person cannot reasonably acquire a continuous alcohol monitoring device.

A person required to submit to continuous alcohol monitoring must pay the costs of monitoring, except that the Judicial District's probation department must pay the costs from the Offender Services Fund if a court determines that a person is unable to pay. A person represented by a court-appointed counsel is presumed unable to pay. The bill clarifies that the Offender Services Fund may be used to pay for CAM services.

Background

The Judicial Department currently works with a vendor to provide CAM services for Colorado probation. These services require a probationer to wear a device, which their probation officer or a third-party monitor to determine compliance. These services cost \$10 per day per probationer for full service when a third-party monitors the device, or \$8 per day per probationer when a probation officer monitors the device. Full service is unavailable in four judicial districts, and partially available in one. The Judicial Department uses full service monitoring where it is available. When the department uses a probation officer for monitoring, the officer is also responsible for installing and uninstalling monitoring devices.

Revocation filings occur when monitoring devices detect that an individual has violated the terms of their probation. Hearings related to these filings require the probation officer to be present.

When an offender that is responsible for the cost of monitoring does not follow through on payments to the vendor, the Judicial Department covers the cost in order to continue the monitoring. Costs paid for an offender that should pay are recouped through the cost recovery process.

State Revenue

The bill may minimally increase state revenue from cost recoveries in situations where an offender is able to pay for CAM services but does not do so, and the Judicial Department is able to collect associated payments from the offender. This revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures in the Judicial Department and Department of Revenue by \$573,765 in FY 2022-23 and \$1,058,825 in FY 2023-24. Costs are from the General Fund and Offender Services Cash Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 22-055**

Cost Components	FY 2022-23	FY 2023-24
Judicial Department		
Personal Services	\$85,362	\$146,335
Operating Expenses	\$3,435	\$2,795
Capital Outlay Costs	\$15,200	\$800
Continuous Alcohol Monitoring – Vendor	\$370,455	\$740,910
Continuous Alcohol Monitoring – Department	\$42,840	\$85,680
Centrally Appropriated Costs ¹	\$46,180	\$82,305
FTE – Personal Services	1.3 FTE	2.1 FTE
Judicial Subtotal	\$563,472	\$1,058,825
Department of Revenue		
DRIVES Programming	\$8,100	-
Contract Staff	\$2,194	-
Revenue Subtotal	\$10,294	-
Total	\$573,765	\$1,058,825
Total FTE	1.3 FTE	2.1 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Judicial Department. The bill increases Judicial Department costs to provide additional CAM services and to handle additional revocation filings, assumed to be paid from the Offender Services Fund.

- **Staffing.** Judicial will require 1.5 FTE for a new probation officer to conduct monitoring for CAM cases where full service monitoring is not available, and to handle additional revocations that may occur as a result of the expansion in continuous monitoring. Based on standard staffing ratios, the department will also require 0.3 FTE for a probation supervisor and 0.3 FTE for support staff. The fiscal note includes the standard operating and capital outlay costs for probation officers. Staffing levels in FY 2022-23 are prorated for a December 1 start date.
- **Monitoring.** The Judicial Department will incur costs for additional full-service monitoring by the current vendor, at a cost of \$10 per day. The fiscal note assumes that there are 663 likely new cases that will require 90 days of CAM, and 209 current CAM cases that will be extended for the full 90 days. The fiscal note assumes a half-year impact in FY 2022-23 and a full year of costs in FY 2023-24.

The fiscal note assumes that there will be 96 new CAM cases and 30 current CAM cases that will be extended for the full 90 days in judicial districts where full service monitoring is not available. Costs for these cases include \$8 per day for vendor services, plus probation officer time for monitoring, estimated at just over 1,000 minutes for new cases and 10 minutes per day for extended cases.

- **Trial courts and probation hearings.** The bill will decrease filings for driving under restraint charges due to earlier reinstatement of defendants' licenses. This decrease is expected to be minimal. The bill also increases probation revocation hearings in existing cases as a result of continuous alcohol monitoring by minimal amount. No change in appropriations is required.

Department of Revenue. The department will incur one-time costs to make changes to the reinstatement waiting period for drivers with an impaired driving offense in the DRIVES system. Costs include 36 hours of programming by the system vendor, at a standard rate of \$225 per hour, and \$2,194 for 40 staff hours to support the development and testing for the changes. These costs are from the General Fund.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$1,544 in FY 2022-23, which will decrease the amount of General Fund available for other purposes.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed. It applies to offenses committed on or after January 1, 2023.

State Appropriations

For FY 2022-23, the bill requires the following appropriations:

- \$517,292 from the Offender Services Fund to the Judicial Department, and 1.3 FTE; and
- \$10,294 from the General Fund to the Department of Revenue, of which \$1,386 is reappropriated to the Office of Information Technology.

State and Local Government Contacts

District Attorneys
Judicial

Information Technology
Revenue