

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0356.01 Conrad Imel x2313

SENATE BILL 22-055

SENATE SPONSORSHIP

Cooke and Hansen,

HOUSE SPONSORSHIP

Roberts and McKean,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING INCREASED ALCOHOL MONITORING FOR IMPAIRED
102 DRIVING OFFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under existing law, a person whose driver's license has been revoked for one year or more because of a conviction for DUI, DUI per se, DWAI, or excess BAC, or a person whose license has been revoked for 9 months for a first offense for DUI, DUI per se, or excess BAC, may apply for early reinstatement with an interlock-restricted license after the person's license has been revoked for one month. The bill permits a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

person to apply for an early reinstatement with an interlock-restricted license immediately.

Existing law permits a court to order continuous alcohol monitoring for a person sentenced to probation following a second or subsequent conviction for DUI, DUI per se, or DWAI. The bill requires at least 90 days of continuous alcohol monitoring for a person sentenced to probation following a third or subsequent offense, or a felony offense, for DUI, DUI per se, or DWAI. The bill adds an exception for any continuous alcohol monitoring if the court finds that ordering monitoring would not be in the interest of justice or if the person's residence is in an area where the person cannot reasonably acquire a monitoring device.

The bill requires the judicial district's probation department to pay the costs of continuous alcohol monitoring for a person who is unable to pay and clarifies that money in the offender services fund can be used to pay those costs.

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

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

4 **42-2-132.5. Mandatory and voluntary restricted licenses**
5 **following alcohol convictions - rules. (4) Persons who may acquire an**
6 **interlock-restricted license prior to serving a full-term revocation.**

7 (a) (I) A person whose privilege to drive has been revoked for one year
8 or more because of a DUI, DUI per se, or DWAI conviction or has been
9 revoked for one year or more for excess BAC ~~under any provision of~~
10 ~~PURSUANT TO~~ section 42-2-126 may apply for an early reinstatement with
11 an interlock-restricted license ~~under the provisions of~~ ~~PURSUANT TO~~ this
12 section ~~after the person's privilege to drive has been revoked for one~~
13 ~~month~~ AT ANY TIME; except that a person who is less than twenty-one
14 years of age at the time of the offense may not apply for early
15 reinstatement until ~~his or her~~ THE PERSON'S license has been revoked for
16 one year. A person whose privilege to drive has been revoked for one
17 year or more because of a refusal may apply for an early reinstatement

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

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

26 **SECTION 2.** In Colorado Revised Statutes, 42-4-1307, **amend**
27 (6.5)(c)(II), (7) introductory portion, (7)(b)(VI), and (13); and **add**

1 (2)(a.7) as follows:

2 **42-4-1307. Penalties for traffic offenses involving alcohol and**
3 **drugs - legislative declaration - definitions - repeal. (2) Definitions.**

4 As used in this section, unless the context otherwise requires:

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

13 (6.5) **Felony offenses.** (c) Additionally, if the court sentences the
14 defendant to a term of probation as provided by section 18-1.3-202, then,
15 as a condition of probation, the court shall:

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

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

24 (b) The court:

25 (VI) (A) May require ~~the~~ A person SENTENCED FOR A SECOND
26 OFFENSE PURSUANT TO SUBSECTION (5)(a)(IV) OF THIS SECTION to submit
27 to continuous alcohol monitoring using ~~such~~ technology or devices ~~as are~~

1 available to the court for ~~such~~ THAT purpose; EXCEPT THAT THE COURT
2 SHALL NOT REQUIRE CONTINUOUS ALCOHOL MONITORING IF THE COURT
3 FINDS THAT REQUIRING MONITORING IS NOT IN THE BEST INTERESTS OF
4 JUSTICE, AND THE COURT ENTERS THAT FINDING IN THE RECORD, OR IF THE
5 PERSON'S RESIDENCE IS IN AN AREA WHERE THE PERSON CANNOT
6 REASONABLY ACQUIRE A CONTINUOUS ALCOHOL MONITORING DEVICE; and

7 (B) SHALL REQUIRE A PERSON SENTENCED FOR A THIRD OR
8 SUBSEQUENT OFFENSE PURSUANT TO SUBSECTION (6)(a)(IV) OF THIS
9 SECTION TO SUBMIT TO CONTINUOUS ALCOHOL MONITORING FOR AT LEAST
10 NINETY DAYS USING TECHNOLOGY OR DEVICES AVAILABLE TO THE COURT
11 FOR THAT PURPOSE; EXCEPT THAT THE COURT SHALL NOT REQUIRE
12 CONTINUOUS ALCOHOL MONITORING IF THE COURT FINDS THAT REQUIRING
13 MONITORING IS NOT IN THE BEST INTERESTS OF JUSTICE, AND THE COURT
14 ENTERS THAT FINDING IN THE RECORD, OR IF THE PERSON'S RESIDENCE IS
15 IN AN AREA WHERE THE PERSON CANNOT REASONABLY ACQUIRE A
16 CONTINUOUS ALCOHOL MONITORING DEVICE; AND

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

22 (b) A PERSON REQUIRED TO SUBMIT TO CONTINUOUS ALCOHOL
23 MONITORING SHALL PAY THE COSTS OF MONITORING UNLESS THE COURT
24 DETERMINES THAT THE PERSON IS UNABLE TO PAY THE COSTS. IF THE
25 COURT DETERMINES THAT THE PERSON IS UNABLE TO PAY THE COSTS OF
26 CONTINUOUS ALCOHOL MONITORING, THE JUDICIAL DISTRICT'S PROBATION
27 DEPARTMENT SHALL PAY THE COSTS FROM THE OFFENDER SERVICES FUND

1 ESTABLISHED IN SECTION 16-11-214. THE COURT SHALL PRESUME THAT A
2 PERSON REPRESENTED BY COURT-APPOINTED COUNSEL IS UNABLE TO PAY
3 FOR MONITORING SERVICES.

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

6 **16-11-214. Fund created - probation services.** (1) (a) There is
7 created in the state treasury the offender services fund to which must be
8 credited one hundred percent of any cost of care payments or probation
9 supervision fees paid to the state pursuant to section 18-1.3-204 (2)(a)(V)
10 or 19-2.5-1120 and from which the general assembly shall make annual
11 appropriations for administrative and personnel costs for adult and
12 juvenile probation services, as well as for adjunct adult and juvenile
13 probation services in the judicial department, including treatment
14 services; contract services; drug and alcohol treatment services,
15 INCLUDING CONTINUOUS ALCOHOL MONITORING; and program
16 development, and for associated administrative and personnel costs. Any
17 money remaining in the fund at the end of any fiscal year does not revert
18 to the general fund.

19 **SECTION 4. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
21 the expiration of the ninety-day period after final adjournment of the
22 general assembly; except that, if a referendum petition is filed pursuant
23 to section 1 (3) of article V of the state constitution against this act or an
24 item, section, or part of this act within such period, then the act, item,
25 section, or part will not take effect unless approved by the people at the
26 general election to be held in November 2022 and, in such case, will take
27 effect on the date of the official declaration of the vote thereon by the

1 governor.

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

3 2023.