

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Appropriations

House Committees

A BILL FOR AN ACT

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

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Under existing law, a person whose driver's license has been revoked for one year or more because of a conviction for DUI, DUI per se, DWAI, or excess BAC, or a person whose license has been revoked for 9 months for a first offense for DUI, DUI per se, or excess BAC, may apply for early reinstatement with an interlock-restricted license after the

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person's license has been revoked for one month. The bill permits a 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

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3 this section after the person's privilege to drive has been revoked for two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6 ~~her~~ THE PERSON'S license has been revoked for one year.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

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20 ~~drive has been revoked for at least one month~~ AT ANY TIME.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

27 **SECTION 2.** In Colorado Revised Statutes, 42-4-1307, **amend**

1 (6.5)(c)(II), (7) introductory portion, (7)(b)(VI), and (13); and **add**
2 (2)(a.7) as follows:

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

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

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

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

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

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

25 (b) The court:

26 (VI) (A) May require ~~the~~ A person SENTENCED FOR A SECOND
27 OFFENSE PURSUANT TO SUBSECTION (5)(a)(IV) OF THIS SECTION to submit

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

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

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

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

1 DEPARTMENT SHALL PAY THE COSTS OF MONITORING. THE COURT SHALL
2 PRESUME THAT A PERSON REPRESENTED BY COURT-APPOINTED COUNSEL
3 IS UNABLE TO PAY 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. Appropriation.** (1) For the 2022-23 state fiscal
20 year, \$517,292 is appropriated to the judicial department. This
21 appropriation is from the offender services fund created in section
22 16-11-214 (1)(a), C.R.S. To implement this act, the department may use
23 this appropriation as follows:

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

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

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

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

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

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

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

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

26 (2) This act applies to offenses committed on or after January 1,
27 2023.