

March 31, 2009

H 926. CONTINUOUS ALCOHOL MONITORING SYSTEMS (=S 1087). Filed 3/31/09. *TO ALLOW THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS AS A CONDITION OF PROBATION, TO MEET REQUIREMENTS FOR THE RESTORATION OF A REVOKED DRIVERS LICENSE, TO MITIGATE PUNISHMENTS FOR IMPAIRED DRIVING OFFENSES, AND TO ENSURE COMPLIANCE WITH CHILD CUSTODY AND VISITATION ORDERS.*

Substantively identical to S 1087, filed 3/26/09.

Intro. by M. Alexander, Faison, Guice.

GS 15A, 20, 50

April 28, 2009

H 926. CONTINUOUS ALCOHOL MONITORING SYSTEMS. Filed 3/31/09. House committee substitute makes the following changes to 1st edition. Reorganizes the bill and makes substantial changes. Eliminates proposed amended GS 20-19(e2)(3), which allowed voluntary submission to continuous alcohol monitoring for 120 days to serve as evidence of abstinence from alcohol consumption. Eliminates proposed amended GS 20-28, which allowed a judge to order a defendant whose license was revoked as a result of a DWI to abstain from alcohol, verified by continuous alcohol monitoring, for a minimum of 90 days instead of incarceration.

Section 1 of the committee substitute modifies a provision in section 4 of the previous edition by adding a new provision in GS 15A-1343(b1) that allows (1) abstinence from alcohol, verified by continuous alcohol monitoring and/or (2) submission to recommended treatment when alcohol dependency or chronic abuse has been identified by substance abuse assessment (was, that verified abstinence from alcohol through continuous monitoring was applicable if the person had two or more convictions for an alcohol-related offense, including impaired driving offenses) to be a special condition of probation. If the court finds that the defendant should not be required to pay the costs of monitoring, it must not impose that condition, unless a state or local government agency agrees to pay the costs, in which case the agency shall pay the service provider directly. Requires the entity providing the continuous alcohol monitoring system to maintain records of all payments, which must be made available to the clerk of court upon request.

Provides in proposed amended GS 15A-1340.11 that, in addition to other conditions for an offender on probation, a sentence may also require that the defendant abstain from alcohol as verified by a continuous alcohol monitoring system and/or submit to recommended treatment (was, in the previous edition listed as a condition of an intermediate punishment).

Deletes in proposed amended GS 15A-1343 that a defendant is not required to pay costs associated with special conditions of probation in lieu of, or prior to, payments required under the regular conditions of probation. Instead, the committee substitute retains current law and creates an exception for the costs of continuous alcohol monitoring when paid by a state or local government agency.

Adds to proposed amended GS 15A-534.1(a)(2) to allow a judge to make abstinence from alcohol, verified by continuous alcohol monitoring, and/or alcohol abuse treatment to be conditions of pretrial release (was, abstain from alcohol consumption verified by a continuous alcohol monitoring system).

Amends GS 15A-1343.3 to broaden the scope of the Department of Correction's regulations for continuous alcohol monitoring to include parole and pretrial release as well as probation.

Amends GS 20-19(d)(2) to provide that voluntary submission to continuous alcohol monitoring for 120 days or longer may serve as evidence of abstinence for certain applicants for conditional restoration of driving privileges.

Provides in proposed amended GS 20-179 that (1) for Level One DWI sentences, imprisonment may be suspended if the judge requires the defendant to abstain from alcohol, verified by continuous monitoring, for at least 120 days (was, 180 days) and comply with treatment recommendations; (2) for Level Two DWI sentences, imprisonment may be suspended if the judge requires the defendant to abstain from alcohol, verified by continuous monitoring, for at least 90 days and comply with treatment recommendations; (3) the cost to a Level One or Level Two DWI offender for continuous alcohol monitoring may not exceed \$1,500 (previous edition deleted this entire provision); and (4) the court (was, judge) may order abstinence from alcohol and continuous monitoring for any DWI offender as a condition of probation. Deletes that

probation officers may require defendants to submit to continuous alcohol monitoring for assessment purposes.

Makes technical and conforming changes.

Provides that the December 1, 2009, effective date applies to all criminal or civil proceedings, regardless of their commencement date (was, applied to offenses committed or any custody and visitation orders issued on or after December 1, 2009).

August 6, 2009

H 926. CONTINUOUS ALCOHOL MONITORING SYSTEMS. Filed 3/31/09. House committee substitute makes the following changes to 2nd edition. Deletes amendments to GS 15A-1343, GS 15A-1340.11, GS 15A-534.1(a)(2), GS 15A-1343.2(f), GS 15A-1343.3, GS 20-179, and GS 50-13.2.

Effective July 1, 2009, authorizes that, of the funds appropriated to the Department of Transportation, Division of Motor Vehicles, for 2009-10, \$10,000 may be expended for the development and promulgation of guidelines to implement the act.

Specifies that, besides the effective date section of the act, which is effective when the act becomes law, the amendments to GS 20-19 are effective for hearings or proceedings occurring on or after December 1, 2009 (was, applies to all criminal or civil proceedings, regardless of commencement date).

Changes the title to *AN ACT TO ALLOW THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS TO MEET REQUIREMENTS FOR THE RESTORATION OF A REVOKED DRIVERS LICENSE, AND TO AUTHORIZE THE USE OF CERTAIN FUNDS FOR THE PROMULGATION OF DIVISION OF MOTOR VEHICLES GUIDELINES RELATING TO THE USE OF THE RESULTS OF CONTINUOUS ALCOHOL MONITORING SYSTEMS AS EVIDENCE.*

September 1, 2009

SL 2009-500 (H 926). CONTINUOUS ALCOHOL MONITORING SYSTEMS. AN ACT TO ALLOW THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS TO MEET REQUIREMENTS FOR THE RESTORATION OF A REVOKED DRIVERS LICENSE, AND TO AUTHORIZE THE USE OF CERTAIN FUNDS FOR THE PROMULGATION OF DIVISION OF MOTOR VEHICLES GUIDELINES RELATING TO THE USE OF THE RESULTS OF CONTINUOUS ALCOHOL MONITORING SYSTEMS AS EVIDENCE. Summarized in *Daily Bulletin* 3/31/09, 4/28/09, and 8/6/09. Enacted August 26, 2009. Section 3 is effective July 1, 2009. Section 4 is effective August 26, 2009. The remainder is effective for hearings and proceedings occurring on or after December 1, 2009.