

[Comments \(79\)](#) | [Recommend \(2\)](#)

Buzz up!

- [Print](#)
- [Reprint or License](#)
- [Share](#)

N.C. law blunts key DWI weapon

Judges can order alcohol testing devices for offenders - but only for 60 days.

By Ames Alexander
aalexander@charlotteobserver.com
Posted: Thursday, Jul. 29, 2010

After Howard Pasour's third impaired driving conviction, a Gaston County judge required him to wear an ankle bracelet that tested his sweat to assure probation officials he wasn't drinking.

But in January, after just two months wearing the anklet, Pasour was allowed to remove it. Now, six months later, he's charged with causing a crash that killed 17-year-old Laura Fortenberry. Authorities say he'd been drinking.

Under a provision in state law - which experts call the only one of its kind in the country - N.C. judges aren't allowed to put the monitoring devices on serious DWI offenders for more than 60 days. The law was designed to limit the costs for offenders, who are required to pay \$12 a day for the device.

But some experts say that has robbed the courts of a key tool to help drunk drivers come to grips with their problem. It typically takes longer than 60 days of abstinence to ensure people with serious alcohol problems change their behavior, researchers have found.

Stephen Talpins, an expert on impaired driving and vice president of a company that manufactures the bracelets, said he hasn't seen any other states set such limits.

"In order to maximize the potential of the device, I believe the judges need discretion to use it more than 60 days," said Talpins, who heads the National Partnership on Alcohol Misuse and Crime. " ... You can't treat a chronic illness with a quick intervention."

In a study of 114 N.C. offenders who wore the anklets, the National Center for State Courts found that the technology appeared to be most effective for offenders who use the devices for at least 90 days. (The study examined offenders before the law setting the 60-day limit went into effect in late 2007.)

Two lawmakers who sponsored the legislation authorizing the use of the bracelets - Rep. Martha Alexander, D-Mecklenburg, and Sen. John Snow, D-Cherokee - now say they'd be willing to consider extending the time offenders can wear the device.

"If you find the person is an alcoholic ... it may be the thing that saves his life," said Snow, a retired District Court judge.

Lawmakers wanted to ensure that indigent offenders could afford the devices, Snow said. County governments may be able to keep the program fair and affordable by subsidizing the cost of the anklets for the poor, Snow said. Some local governments might be willing to spend the money because it's less expensive than jailing offenders, he said.

Rehabilitation Support Services, a Brevard company that provides the devices to the N.C. courts, says it's working to make the program more affordable. In Wake County, the company is trying out a sliding fee scale, with indigent offenders paying half the usual rate and those with higher incomes paying more.

That approach might spread to other counties, said company president Bruce Roberts. He plans to ask lawmakers to remove the 60-day limit.

"Why wouldn't we as a state aggressively try to figure out how these things can save lives?" Roberts said.

Rushed recovery?

Joseph Buckner, the first judge in the state to order use of the anklets, said he's found them useful.

"We've had a lot of offenders say ... 'the bracelet gave me the time to realize I had a problem,'" said Buckner, who is chief district judge for Orange and Chatham counties.

But Buckner questions the 60-day cap, and says he's never seen research to suggest that's enough time for recovery.

"I'd leave it to the judge's discretion," he said. "Some people need longer than others."

Pasour, 28, stayed free of alcohol for the two months he wore the anklet, according to the company that equipped him with the device. It's unclear what happened after he was allowed to remove the device on Jan. 12.

But on Sunday, shortly before 9 p.m., Pasour's Jeep Cherokee was traveling about 60 mph on a two-lane road in Gaston County when it slammed into a car carrying Fortenberry, a recent graduate of North Gaston High School, and two friends. Authorities say he had beer on his breath and open containers of alcohol in his car.

Fortenberry's relatives and friends will gather for her funeral this morning in a Dallas church. Pasour will be nine miles away. He's in the Gaston County jail, charged with seven felonies.

Behind the curve

Makers of the device say it's all but foolproof. Every half hour, sensors on the anklet test an offender's sweat for signs of alcohol use. That information is transmitted to a central computer.

If the device shows an offender has been drinking, the company issues a violation report to the probation office. A judge would consider the information to determine whether to change probation requirements or give the offender an active jail sentence.

But the technology has been relatively slow to take off in North Carolina. Statewide, about 1,100 offenders have been monitored by the devices. Nationally, the number exceeds 140,000.

Cost has been a major obstacle, Roberts said. Some judges are reluctant to use the technology until

they believe it is affordable for all, he said.

But experts on impaired driving say the 60-day limit isn't the answer.

"Can you imagine going to a physician who can give you three Tylenol but not more? That would make no sense," Talpins said. "The treatment really should be tailored to the individual." Researcher Maria David and Staff Writer David Perlmutter contributed.



[Subscribe to The Charlotte Observer.](#)