



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 789: Mitigating Factor/Pretrial Use of IID.

2025-2026 General Assembly

Committee:	House Judiciary 2. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 29, 2025
Introduced by:	Reps. Schietzelt, Chesser, Reeder, Carson Smith	Prepared by:	Susan Sitze Staff Attorney
Analysis of:	PCS to First Edition H789-CSSA-20		

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 789 would establish a mitigating factor for certain persons charged with impaired driving who voluntarily equip and operate a motor vehicle with an ignition interlock system prior to trial.*

CURRENT LAW:

Impaired driving offenses are excluded from sentencing under Structured Sentencing, and instead, are sentenced pursuant to G.S. 20-179, which includes six levels of punishment from the most restrictive of Aggravated Level One Punishment to the least restrictive of Level Five Punishment. Each level has specific parameters within which the judge can determine the sentence. The level of punishment is determined by consideration of grossly aggravating, aggravating, and mitigating factors specific to the offense committed.

Examples of **grossly aggravating** factors include certain prior impaired driving convictions, serious injury caused to another person, or the presence of a child in the vehicle.

Examples of **aggravating** factors include a blood alcohol concentration (BAC) of 0.15 or more, excessive speeding, or especially reckless or dangerous driving.

Examples of **mitigating** factors include driving at the time of the offense that was safe and lawful except for the impairment, impairment caused by a lawfully prescribed drug taken in the prescribed amount, or voluntary submission to a substance abuse assessment and compliance with any treatment recommended.

If one or more grossly aggravating factors are found, the judge must sentence at the Aggravated Level One, Level One, or Level Two punishment level and any other aggravating or mitigating factors may be considered in determining the actual sentence within the parameters provided in the appropriate level.

If no grossly aggravating factors are found, the judge must weigh aggravating and mitigating factors to determine if a Level Three, Level Four, or Level Five punishment level is appropriate.

BILL ANALYSIS:

The PCS for H789 would provide that installation and use of an ignition interlock device on a designated motor vehicle, and operation of only that vehicle, for at least 6 months prior to trial for an impaired driving offense is a mitigating factor. This mitigating factor would only be applicable if the defendant meets the following criteria:

- Is charged with a violation of G.S. 20-138.1.

Kara McCraw
Director



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- The offense did not involve a crash resulting in serious injury or death of a person.
- The defendant held a valid drivers' license or one that had expired less than one year at the time of the offense.
- At the time of the offense, the defendant did not have any pending impaired driving charges, or convictions of impaired driving within 5 years.
- The defendant did not have a BAC of 0.15 or more.
- The defendant installed the ignition interlock within 45 days of the offense.
- The defendant only operated the vehicle with a valid limited driving privilege or when the defendant's license was not revoked or suspended.

The PCS would also make conforming changes to G.S. 20-179.5 related to costs associated with installation and monitoring of an ignition interlock system.

EFFECTIVE DATE: This act would become effective December 1, 2025, and apply to offenses on or after that date.