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**SUBSTITUTE HOUSE BILL 1504**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Klippert and Goodman)

1 AN ACT Relating to impaired driving; amending RCW 9.94A.533,  
2 9.94A.729, 10.21.055, 18.360.030, 38.52.430, 46.20.245, 46.20.3101,  
3 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500, 46.61.503,  
4 46.61.504, 46.61.5055, and 46.61.5055; reenacting and amending RCW  
5 46.20.355; repealing RCW 43.43.3951; prescribing penalties; providing  
6 an effective date; and providing an expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read  
9 as follows:

10 (1) The provisions of this section apply to the standard sentence  
11 ranges determined by RCW 9.94A.510 or 9.94A.517.

12 (2) For persons convicted of the anticipatory offenses of  
13 criminal attempt, solicitation, or conspiracy under chapter 9A.28  
14 RCW, the standard sentence range is determined by locating the  
15 sentencing grid sentence range defined by the appropriate offender  
16 score and the seriousness level of the completed crime, and  
17 multiplying the range by seventy-five percent.

18 (3) The following additional times shall be added to the standard  
19 sentence range for felony crimes committed after July 23, 1995, if  
20 the offender or an accomplice was armed with a firearm as defined in  
21 RCW 9.41.010 and the offender is being sentenced for one of the

1 crimes listed in this subsection as eligible for any firearm  
2 enhancements based on the classification of the completed felony  
3 crime. If the offender is being sentenced for more than one offense,  
4 the firearm enhancement or enhancements must be added to the total  
5 period of confinement for all offenses, regardless of which  
6 underlying offense is subject to a firearm enhancement. If the  
7 offender or an accomplice was armed with a firearm as defined in RCW  
8 9.41.010 and the offender is being sentenced for an anticipatory  
9 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
10 this subsection as eligible for any firearm enhancements, the  
11 following additional times shall be added to the standard sentence  
12 range determined under subsection (2) of this section based on the  
13 felony crime of conviction as classified under RCW 9A.28.020:

14 (a) Five years for any felony defined under any law as a class A  
15 felony or with a statutory maximum sentence of at least twenty years,  
16 or both, and not covered under (f) of this subsection;

17 (b) Three years for any felony defined under any law as a class B  
18 felony or with a statutory maximum sentence of ten years, or both,  
19 and not covered under (f) of this subsection;

20 (c) Eighteen months for any felony defined under any law as a  
21 class C felony or with a statutory maximum sentence of five years, or  
22 both, and not covered under (f) of this subsection;

23 (d) If the offender is being sentenced for any firearm  
24 enhancements under (a), (b), and/or (c) of this subsection and the  
25 offender has previously been sentenced for any deadly weapon  
26 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
27 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
28 both, all firearm enhancements under this subsection shall be twice  
29 the amount of the enhancement listed;

30 (e) Notwithstanding any other provision of law, all firearm  
31 enhancements under this section are mandatory, shall be served in  
32 total confinement, and shall run consecutively to all other  
33 sentencing provisions, including other firearm or deadly weapon  
34 enhancements, for all offenses sentenced under this chapter. However,  
35 whether or not a mandatory minimum term has expired, an offender  
36 serving a sentence under this subsection may be:

37 (i) Granted an extraordinary medical placement when authorized  
38 under RCW 9.94A.728(1)(c); or

39 (ii) Released under the provisions of RCW 9.94A.730;

1 (f) The firearm enhancements in this section shall apply to all  
2 felony crimes except the following: Possession of a machine gun or  
3 bump-fire stock, possessing a stolen firearm, drive-by shooting,  
4 theft of a firearm, unlawful possession of a firearm in the first and  
5 second degree, and use of a machine gun or bump-fire stock in a  
6 felony;

7 (g) If the standard sentence range under this section exceeds the  
8 statutory maximum sentence for the offense, the statutory maximum  
9 sentence shall be the presumptive sentence unless the offender is a  
10 persistent offender. If the addition of a firearm enhancement  
11 increases the sentence so that it would exceed the statutory maximum  
12 for the offense, the portion of the sentence representing the  
13 enhancement may not be reduced.

14 (4) The following additional times shall be added to the standard  
15 sentence range for felony crimes committed after July 23, 1995, if  
16 the offender or an accomplice was armed with a deadly weapon other  
17 than a firearm as defined in RCW 9.41.010 and the offender is being  
18 sentenced for one of the crimes listed in this subsection as eligible  
19 for any deadly weapon enhancements based on the classification of the  
20 completed felony crime. If the offender is being sentenced for more  
21 than one offense, the deadly weapon enhancement or enhancements must  
22 be added to the total period of confinement for all offenses,  
23 regardless of which underlying offense is subject to a deadly weapon  
24 enhancement. If the offender or an accomplice was armed with a deadly  
25 weapon other than a firearm as defined in RCW 9.41.010 and the  
26 offender is being sentenced for an anticipatory offense under chapter  
27 9A.28 RCW to commit one of the crimes listed in this subsection as  
28 eligible for any deadly weapon enhancements, the following additional  
29 times shall be added to the standard sentence range determined under  
30 subsection (2) of this section based on the felony crime of  
31 conviction as classified under RCW 9A.28.020:

32 (a) Two years for any felony defined under any law as a class A  
33 felony or with a statutory maximum sentence of at least twenty years,  
34 or both, and not covered under (f) of this subsection;

35 (b) One year for any felony defined under any law as a class B  
36 felony or with a statutory maximum sentence of ten years, or both,  
37 and not covered under (f) of this subsection;

38 (c) Six months for any felony defined under any law as a class C  
39 felony or with a statutory maximum sentence of five years, or both,  
40 and not covered under (f) of this subsection;

1 (d) If the offender is being sentenced under (a), (b), and/or (c)  
2 of this subsection for any deadly weapon enhancements and the  
3 offender has previously been sentenced for any deadly weapon  
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
5 subsection or subsection (3)(a), (b), and/or (c) of this section, or  
6 both, all deadly weapon enhancements under this subsection shall be  
7 twice the amount of the enhancement listed;

8 (e) Notwithstanding any other provision of law, all deadly weapon  
9 enhancements under this section are mandatory, shall be served in  
10 total confinement, and shall run consecutively to all other  
11 sentencing provisions, including other firearm or deadly weapon  
12 enhancements, for all offenses sentenced under this chapter. However,  
13 whether or not a mandatory minimum term has expired, an offender  
14 serving a sentence under this subsection may be:

15 (i) Granted an extraordinary medical placement when authorized  
16 under RCW 9.94A.728(1)(c); or

17 (ii) Released under the provisions of RCW 9.94A.730;

18 (f) The deadly weapon enhancements in this section shall apply to  
19 all felony crimes except the following: Possession of a machine gun  
20 or bump-fire stock, possessing a stolen firearm, drive-by shooting,  
21 theft of a firearm, unlawful possession of a firearm in the first and  
22 second degree, and use of a machine gun or bump-fire stock in a  
23 felony;

24 (g) If the standard sentence range under this section exceeds the  
25 statutory maximum sentence for the offense, the statutory maximum  
26 sentence shall be the presumptive sentence unless the offender is a  
27 persistent offender. If the addition of a deadly weapon enhancement  
28 increases the sentence so that it would exceed the statutory maximum  
29 for the offense, the portion of the sentence representing the  
30 enhancement may not be reduced.

31 (5) The following additional times shall be added to the standard  
32 sentence range if the offender or an accomplice committed the offense  
33 while in a county jail or state correctional facility and the  
34 offender is being sentenced for one of the crimes listed in this  
35 subsection. If the offender or an accomplice committed one of the  
36 crimes listed in this subsection while in a county jail or state  
37 correctional facility, and the offender is being sentenced for an  
38 anticipatory offense under chapter 9A.28 RCW to commit one of the  
39 crimes listed in this subsection, the following additional times

1 shall be added to the standard sentence range determined under  
2 subsection (2) of this section:

3 (a) Eighteen months for offenses committed under RCW 69.50.401(2)  
4 (a) or (b) or 69.50.410;

5 (b) Fifteen months for offenses committed under RCW 69.50.401(2)  
6 (c), (d), or (e);

7 (c) Twelve months for offenses committed under RCW 69.50.4013.

8 For the purposes of this subsection, all of the real property of  
9 a state correctional facility or county jail shall be deemed to be  
10 part of that facility or county jail.

11 (6) An additional twenty-four months shall be added to the  
12 standard sentence range for any ranked offense involving a violation  
13 of chapter 69.50 RCW if the offense was also a violation of RCW  
14 69.50.435 or 9.94A.827. All enhancements under this subsection shall  
15 run consecutively to all other sentencing provisions, for all  
16 offenses sentenced under this chapter.

17 (7) An additional two years shall be added to the standard  
18 sentence range for vehicular homicide committed while under the  
19 influence of intoxicating liquor or any drug as defined by RCW  
20 46.61.502 for each prior offense as defined in RCW 46.61.5055.

21 Notwithstanding any other provision of law, all impaired driving  
22 enhancements under this subsection are mandatory, shall be served in  
23 total confinement, and shall run consecutively to all other  
24 sentencing provisions, including other impaired driving enhancements,  
25 for all offenses sentenced under this chapter.

26 An offender serving a sentence under this subsection may be  
27 granted an extraordinary medical placement when authorized under RCW  
28 9.94A.728(1)(c).

29 (8)(a) The following additional times shall be added to the  
30 standard sentence range for felony crimes committed on or after July  
31 1, 2006, if the offense was committed with sexual motivation, as that  
32 term is defined in RCW 9.94A.030. If the offender is being sentenced  
33 for more than one offense, the sexual motivation enhancement must be  
34 added to the total period of total confinement for all offenses,  
35 regardless of which underlying offense is subject to a sexual  
36 motivation enhancement. If the offender committed the offense with  
37 sexual motivation and the offender is being sentenced for an  
38 anticipatory offense under chapter 9A.28 RCW, the following  
39 additional times shall be added to the standard sentence range

1 determined under subsection (2) of this section based on the felony  
2 crime of conviction as classified under RCW 9A.28.020:

3 (i) Two years for any felony defined under the law as a class A  
4 felony or with a statutory maximum sentence of at least twenty years,  
5 or both;

6 (ii) Eighteen months for any felony defined under any law as a  
7 class B felony or with a statutory maximum sentence of ten years, or  
8 both;

9 (iii) One year for any felony defined under any law as a class C  
10 felony or with a statutory maximum sentence of five years, or both;

11 (iv) If the offender is being sentenced for any sexual motivation  
12 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
13 the offender has previously been sentenced for any sexual motivation  
14 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
15 (iii) of this subsection, all sexual motivation enhancements under  
16 this subsection shall be twice the amount of the enhancement listed;

17 (b) Notwithstanding any other provision of law, all sexual  
18 motivation enhancements under this subsection are mandatory, shall be  
19 served in total confinement, and shall run consecutively to all other  
20 sentencing provisions, including other sexual motivation  
21 enhancements, for all offenses sentenced under this chapter. However,  
22 whether or not a mandatory minimum term has expired, an offender  
23 serving a sentence under this subsection may be:

24 (i) Granted an extraordinary medical placement when authorized  
25 under RCW 9.94A.728(1)(c); or

26 (ii) Released under the provisions of RCW 9.94A.730;

27 (c) The sexual motivation enhancements in this subsection apply  
28 to all felony crimes;

29 (d) If the standard sentence range under this subsection exceeds  
30 the statutory maximum sentence for the offense, the statutory maximum  
31 sentence shall be the presumptive sentence unless the offender is a  
32 persistent offender. If the addition of a sexual motivation  
33 enhancement increases the sentence so that it would exceed the  
34 statutory maximum for the offense, the portion of the sentence  
35 representing the enhancement may not be reduced;

36 (e) The portion of the total confinement sentence which the  
37 offender must serve under this subsection shall be calculated before  
38 any earned early release time is credited to the offender;

1 (f) Nothing in this subsection prevents a sentencing court from  
2 imposing a sentence outside the standard sentence range pursuant to  
3 RCW 9.94A.535.

4 (9) An additional one-year enhancement shall be added to the  
5 standard sentence range for the felony crimes of RCW 9A.44.073,  
6 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
7 or after July 22, 2007, if the offender engaged, agreed, or offered  
8 to engage the victim in the sexual conduct in return for a fee. If  
9 the offender is being sentenced for more than one offense, the  
10 one-year enhancement must be added to the total period of total  
11 confinement for all offenses, regardless of which underlying offense  
12 is subject to the enhancement. If the offender is being sentenced for  
13 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
14 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
15 offender attempted, solicited another, or conspired to engage, agree,  
16 or offer to engage the victim in the sexual conduct in return for a  
17 fee, an additional one-year enhancement shall be added to the  
18 standard sentence range determined under subsection (2) of this  
19 section. For purposes of this subsection, "sexual conduct" means  
20 sexual intercourse or sexual contact, both as defined in chapter  
21 9A.44 RCW.

22 (10)(a) For a person age eighteen or older convicted of any  
23 criminal street gang-related felony offense for which the person  
24 compensated, threatened, or solicited a minor in order to involve the  
25 minor in the commission of the felony offense, the standard sentence  
26 range is determined by locating the sentencing grid sentence range  
27 defined by the appropriate offender score and the seriousness level  
28 of the completed crime, and multiplying the range by one hundred  
29 twenty-five percent. If the standard sentence range under this  
30 subsection exceeds the statutory maximum sentence for the offense,  
31 the statutory maximum sentence is the presumptive sentence unless the  
32 offender is a persistent offender.

33 (b) This subsection does not apply to any criminal street gang-  
34 related felony offense for which involving a minor in the commission  
35 of the felony offense is an element of the offense.

36 (c) The increased penalty specified in (a) of this subsection is  
37 unavailable in the event that the prosecution gives notice that it  
38 will seek an exceptional sentence based on an aggravating factor  
39 under RCW 9.94A.535.

1 (11) An additional twelve months and one day shall be added to  
2 the standard sentence range for a conviction of attempting to elude a  
3 police vehicle as defined by RCW 46.61.024, if the conviction  
4 included a finding by special allegation of endangering one or more  
5 persons under RCW 9.94A.834.

6 (12) An additional twelve months shall be added to the standard  
7 sentence range for an offense that is also a violation of RCW  
8 9.94A.831.

9 (13) An additional twelve months shall be added to the standard  
10 sentence range for vehicular homicide committed while under the  
11 influence of intoxicating liquor or any drug as defined by RCW  
12 46.61.520 or for vehicular assault committed while under the  
13 influence of intoxicating liquor or any drug as defined by RCW  
14 46.61.522, or for any felony driving under the influence (RCW  
15 46.61.502(6)) or felony physical control under the influence (RCW  
16 46.61.504(6)) for each child passenger under the age of sixteen who  
17 is an occupant in the defendant's vehicle. These enhancements shall  
18 be mandatory, shall be served in total confinement, and shall run  
19 consecutively to all other sentencing provisions, including other  
20 minor child enhancements, for all offenses sentenced under this  
21 chapter. If the addition of a minor child enhancement increases the  
22 sentence so that it would exceed the statutory maximum for the  
23 offense, the portion of the sentence representing the enhancement may  
24 not be reduced.

25 (14) An additional twelve months shall be added to the standard  
26 sentence range for an offense that is also a violation of RCW  
27 9.94A.832.

28 **Sec. 2.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to  
29 read as follows:

30 (1)(a) The term of the sentence of an offender committed to a  
31 correctional facility operated by the department may be reduced by  
32 earned release time in accordance with procedures that shall be  
33 developed and adopted by the correctional agency having jurisdiction  
34 in which the offender is confined. The earned release time shall be  
35 for good behavior and good performance, as determined by the  
36 correctional agency having jurisdiction. The correctional agency  
37 shall not credit the offender with earned release credits in advance  
38 of the offender actually earning the credits.



1 (b) Any program established pursuant to this section shall allow  
2 an offender to earn early release credits for presentence  
3 incarceration. If an offender is transferred from a county jail to  
4 the department, the administrator of a county jail facility shall  
5 certify to the department the amount of time spent in custody at the  
6 facility and the number of days of early release credits lost or not  
7 earned. The department may approve a jail certification from a  
8 correctional agency that calculates early release time based on the  
9 actual amount of confinement time served by the offender before  
10 sentencing when an erroneous calculation of confinement time served  
11 by the offender before sentencing appears on the judgment and  
12 sentence. The department must adjust an offender's rate of early  
13 release listed on the jail certification to be consistent with the  
14 rate applicable to offenders in the department's facilities. However,  
15 the department is not authorized to adjust the number of presentence  
16 early release days that the jail has certified as lost or not earned.

17 (2) (a) An offender who has been convicted of a felony committed  
18 after July 23, 1995, that involves any applicable deadly weapon  
19 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not  
20 receive any good time credits or earned release time for that portion  
21 of his or her sentence that results from any deadly weapon  
22 enhancements.

23 (b) An offender whose sentence includes any impaired driving  
24 enhancements under RCW 9.94A.533(7), minor child enhancements under  
25 RCW 9.94A.533(13), or both, shall not receive any good time credits  
26 or earned release time for any portion of his or her sentence that  
27 results from those enhancements.

28 (3) An offender may earn early release time as follows:

29 (a) In the case of an offender sentenced pursuant to RCW  
30 10.95.030(3) or 10.95.035, the offender may not receive any earned  
31 early release time during the minimum term of confinement imposed by  
32 the court; for any remaining portion of the sentence served by the  
33 offender, the aggregate earned release time may not exceed ten  
34 percent of the sentence.

35 (b) In the case of an offender convicted of a serious violent  
36 offense, or a sex offense that is a class A felony, committed on or  
37 after July 1, 1990, and before July 1, 2003, the aggregate earned  
38 release time may not exceed fifteen percent of the sentence.

39 (c) In the case of an offender convicted of a serious violent  
40 offense, or a sex offense that is a class A felony, committed on or

1 after July 1, 2003, the aggregate earned release time may not exceed  
2 ten percent of the sentence.

3 (d) An offender is qualified to earn up to fifty percent of  
4 aggregate earned release time if he or she:

5 (i) Is not classified as an offender who is at a high risk to  
6 reoffend as provided in subsection (4) of this section;

7 (ii) Is not confined pursuant to a sentence for:

8 (A) A sex offense;

9 (B) A violent offense;

10 (C) A crime against persons as defined in RCW 9.94A.411;

11 (D) A felony that is domestic violence as defined in RCW  
12 10.99.020;

13 (E) A violation of RCW 9A.52.025 (residential burglary);

14 (F) A violation of, or an attempt, solicitation, or conspiracy to  
15 violate, RCW 69.50.401 by manufacture or delivery or possession with  
16 intent to deliver methamphetamine; or

17 (G) A violation of, or an attempt, solicitation, or conspiracy to  
18 violate, RCW 69.50.406 (delivery of a controlled substance to a  
19 minor);

20 (iii) Has no prior conviction for the offenses listed in (d)(ii)  
21 of this subsection;

22 (iv) Participates in programming or activities as directed by the  
23 offender's individual reentry plan as provided under RCW 72.09.270 to  
24 the extent that such programming or activities are made available by  
25 the department; and

26 (v) Has not committed a new felony after July 22, 2007, while  
27 under community custody.

28 (e) In no other case shall the aggregate earned release time  
29 exceed one-third of the total sentence.

30 (4) The department shall perform a risk assessment of each  
31 offender who may qualify for earned early release under subsection  
32 (3)(d) of this section utilizing the risk assessment tool recommended  
33 by the Washington state institute for public policy. Subsection  
34 (3)(d) of this section does not apply to offenders convicted after  
35 July 1, 2010.

36 (5)(a) A person who is eligible for earned early release as  
37 provided in this section and who will be supervised by the department  
38 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
39 community custody in lieu of earned release time;

1 (b) The department shall, as a part of its program for release to  
2 the community in lieu of earned release, require the offender to  
3 propose a release plan that includes an approved residence and living  
4 arrangement. All offenders with community custody terms eligible for  
5 release to community custody in lieu of earned release shall provide  
6 an approved residence and living arrangement prior to release to the  
7 community;

8 (c) The department may deny transfer to community custody in lieu  
9 of earned release time if the department determines an offender's  
10 release plan, including proposed residence location and living  
11 arrangements, may violate the conditions of the sentence or  
12 conditions of supervision, place the offender at risk to violate the  
13 conditions of the sentence, place the offender at risk to reoffend,  
14 or present a risk to victim safety or community safety. The  
15 department's authority under this section is independent of any  
16 court-ordered condition of sentence or statutory provision regarding  
17 conditions for community custody;

18 (d) If the department is unable to approve the offender's release  
19 plan, the department may do one or more of the following:

20 (i) Transfer an offender to partial confinement in lieu of earned  
21 early release for a period not to exceed three months. The three  
22 months in partial confinement is in addition to that portion of the  
23 offender's term of confinement that may be served in partial  
24 confinement as provided in RCW 9.94A.728(~~((5))~~) (1)(e);

25 (ii) Provide rental vouchers to the offender for a period not to  
26 exceed three months if rental assistance will result in an approved  
27 release plan.

28 A voucher must be provided in conjunction with additional  
29 transition support programming or services that enable an offender to  
30 participate in services including, but not limited to, substance  
31 abuse treatment, mental health treatment, sex offender treatment,  
32 educational programming, or employment programming;

33 (e) The department shall maintain a list of housing providers  
34 that meets the requirements of RCW 72.09.285. If more than two  
35 voucher recipients will be residing per dwelling unit, as defined in  
36 RCW 59.18.030, rental vouchers for those recipients may only be paid  
37 to a housing provider on the department's list;

38 (f) For each offender who is the recipient of a rental voucher,  
39 the department shall gather data as recommended by the Washington

1 state institute for public policy in order to best demonstrate  
2 whether rental vouchers are effective in reducing recidivism.

3 (6) An offender serving a term of confinement imposed under RCW  
4 9.94A.670(5)(a) is not eligible for earned release credits under this  
5 section.

6 **Sec. 3.** RCW 10.21.055 and 2016 c 203 s 16 are each amended to  
7 read as follows:

8 (1)(a) When any person charged with a violation of RCW 46.61.502,  
9 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior  
10 offense as defined in RCW 46.61.5055 and the current offense involves  
11 alcohol, is released from custody at arraignment or trial on bail or  
12 personal recognizance, the court authorizing the release shall  
13 require, as a condition of release that person comply with one of the  
14 following four requirements:

15 (i) Have a functioning ignition interlock device installed on all  
16 motor vehicles operated by the person, with proof of installation  
17 filed with the court by the person or the certified interlock  
18 provider within five business days of the date of release from  
19 custody or as soon thereafter as determined by the court based on  
20 availability within the jurisdiction; or

21 (ii) Comply with 24/7 sobriety program monitoring, as defined in  
22 RCW 36.28A.330; or

23 (iii) Have an ignition interlock device on all motor vehicles  
24 operated by the person pursuant to (a)(i) of this subsection and  
25 submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of  
26 this subsection, if available, or alcohol monitoring, at the expense  
27 of the person, as provided in RCW 46.61.5055(5)(b) and (c); or

28 (iv) Have an ignition interlock device on all motor vehicles  
29 operated by the person and that such person agrees not to operate any  
30 motor vehicle without an ignition interlock device as required by the  
31 court. Under this subsection (1)(a)(iv), the person must file a sworn  
32 statement with the court upon release at arraignment that states the  
33 person will not operate any motor vehicle without an ignition  
34 interlock device while the ignition interlock restriction is imposed  
35 by the court. Such person must also submit to 24/7 sobriety program  
36 monitoring pursuant to (a)(ii) of this subsection, if available, or  
37 alcohol monitoring, at the expense of the person, as provided in RCW  
38 46.61.5055(5)(b) and (c).

1 (b) The court shall immediately notify the department of  
2 licensing when an ignition interlock restriction is imposed(~~((i))~~)  
3 as a condition of release (~~(pursuant to (a) of this subsection;~~)  
4 (~~((i))~~) after conviction in instances where a person is charged  
5 with, or convicted of, a violation of RCW 46.61.502, 46.61.504,  
6 46.61.520, or 46.61.522(~~(, and the offense involves alcohol)~~). If the  
7 court imposes an ignition interlock restriction, the department of  
8 licensing shall attach or imprint a notation on the driving record of  
9 any person restricted under this section stating that the person may  
10 operate only a motor vehicle equipped with a functioning ignition  
11 interlock device.

12 (2)(a) Upon acquittal or dismissal of all pending or current  
13 charges relating to a violation of RCW 46.61.502, 46.61.504,  
14 46.61.520, or 46.61.522, or equivalent local ordinance, the court  
15 shall authorize removal of the ignition interlock device and lift any  
16 requirement to comply with electronic alcohol/drug monitoring imposed  
17 under subsection (1) of this section. Nothing in this section limits  
18 the authority of the court or department under RCW 46.20.720.

19 (b) If the court authorizes removal of an ignition interlock  
20 device imposed under this section, the court shall immediately notify  
21 the department of licensing regarding the lifting of the ignition  
22 interlock restriction and the department of licensing shall release  
23 any attachment, imprint, or notation on such person's driving record  
24 relating to the ignition interlock requirement imposed under this  
25 section.

26 (3) When an ignition interlock restriction imposed as a condition  
27 of release is canceled, the court shall provide a defendant with a  
28 written order confirming release of the restriction. The written  
29 order shall serve as proof of release of the restriction until which  
30 time the department of licensing updates the driving record.

31 **Sec. 4.** RCW 18.360.030 and 2017 c 336 s 16 are each amended to  
32 read as follows:

33 (1) The secretary shall adopt rules specifying the minimum  
34 qualifications for a medical assistant-certified, medical assistant-  
35 hemodialysis technician, medical assistant-phlebotomist, and forensic  
36 phlebotomist.

37 (~~((a))~~) The qualifications for a medical assistant-hemodialysis  
38 technician must be equivalent to the qualifications for hemodialysis

1 technicians regulated pursuant to chapter 18.135 RCW as of January 1,  
2 2012.

3 ~~((b) The qualifications for a forensic phlebotomist must include~~  
4 ~~training consistent with the occupational safety and health~~  
5 ~~administration guidelines and must include between twenty and thirty~~  
6 ~~hours of work in a clinical setting with the completion of more than~~  
7 ~~one hundred successful venipunctures. The secretary may not require~~  
8 ~~more than forty hours of classroom training for initial training,~~  
9 ~~which may include online preclass homework.))~~

10 (2) The secretary shall adopt rules that establish the minimum  
11 requirements necessary for a health care practitioner, clinic, or  
12 group practice to endorse a medical assistant as qualified to perform  
13 the duties authorized by this chapter and be able to file an  
14 attestation of that endorsement with the department.

15 (3) The medical quality assurance commission, the board of  
16 osteopathic medicine and surgery, the podiatric medical board, the  
17 nursing care quality assurance commission, the board of naturopathy,  
18 and the optometry board shall each review and identify other  
19 specialty assistive personnel not included in this chapter and the  
20 tasks they perform. The department of health shall compile the  
21 information from each disciplining authority listed in this  
22 subsection and submit the compiled information to the legislature no  
23 later than December 15, 2012.

24 **Sec. 5.** RCW 38.52.430 and 2012 c 183 s 6 are each amended to  
25 read as follows:

26 A person whose intoxication causes an incident resulting in an  
27 appropriate emergency response, and who, in connection with the  
28 incident, has been found guilty of or has had their prosecution  
29 deferred for (1) driving while under the influence of intoxicating  
30 liquor or any drug, RCW 46.61.502; (2) physical control of a motor  
31 vehicle while under the influence of intoxicating liquor or any drug,  
32 RCW 46.61.504; (3) operating an aircraft under the influence of  
33 intoxicants or drugs, RCW 47.68.220; ~~((3))~~ (4) use of a vessel  
34 while under the influence of alcohol or drugs, RCW 79A.60.040;  
35 ~~((4))~~ (5) vehicular homicide while under the influence of  
36 intoxicating liquor or any drug, RCW 46.61.520(1)(a); or ~~((5))~~ (6)  
37 vehicular assault while under the influence of intoxicating liquor or  
38 any drug, RCW 46.61.522(1)(b), is liable for the expense of an  
39 emergency response by a public agency to the incident.

1 The expense of an emergency response is a charge against the  
2 person liable for expenses under this section. The charge constitutes  
3 a debt of that person and is collectible by the public agency  
4 incurring those costs in the same manner as in the case of an  
5 obligation under a contract, expressed or implied. Following a  
6 conviction of an offense listed in this section, and prior to  
7 sentencing, the prosecution may present to the court information  
8 setting forth the expenses incurred by the public agency for its  
9 emergency response to the incident. Upon a finding by the court that  
10 the expenses are reasonable, the court shall order the defendant to  
11 reimburse the public agency. The cost reimbursement shall be included  
12 in the sentencing order as an additional monetary obligation of the  
13 defendant and may not be substituted for any other fine or cost  
14 required or allowed by statute. The court may establish a payment  
15 schedule for the payment of the cost reimbursement, separate from any  
16 payment schedule imposed for other fines and costs. All payments for  
17 the cost reimbursement must be remitted directly to the public agency  
18 or agencies that incurred the cost associated with the emergency  
19 response.

20 In no event shall a person's liability under this section for the  
21 expense of an emergency response exceed two thousand five hundred  
22 dollars for a particular incident.

23 If more than one public agency makes a claim for payment from an  
24 individual for an emergency response to a single incident under the  
25 provisions of this section, and the sum of the claims exceeds the  
26 amount recovered, the division of the amount recovered shall be  
27 determined by an interlocal agreement consistent with the  
28 requirements of chapter 39.34 RCW.

29 **Sec. 6.** RCW 46.20.245 and 2005 c 288 s 1 are each amended to  
30 read as follows:

31 (1) Whenever the department proposes to withhold the driving  
32 privilege of a person or disqualify a person from operating a  
33 commercial motor vehicle and this action is made mandatory by the  
34 provisions of this chapter or other law, the department must give  
35 notice to the person in writing by posting in the United States mail,  
36 appropriately addressed, postage prepaid, or by personal service.  
37 Notice by mail is given upon deposit in the United States mail.  
38 Notice given under this subsection must specify the date upon which

1 the driving privilege is to be withheld which shall not be less than  
2 forty-five days after the original notice is given.

3 (2) For persons subject to suspension, revocation, or denial of a  
4 driver's license who are eligible for full credit under RCW  
5 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section  
6 must also notify the person of the obligation to complete the  
7 requirements under RCW 46.20.311 and pay the probationary license fee  
8 under RCW 46.20.355 by the date specified in the notice in order to  
9 avoid license suspension.

10 (3) Within fifteen days after notice has been given to a person  
11 under subsection (1) of this section, the person may request in  
12 writing an administrative review before the department. If the  
13 request is mailed, it must be postmarked within fifteen days after  
14 the date the department has given notice. If a person fails to  
15 request an administrative review within fifteen days after the date  
16 the department gives notice, the person is considered to have  
17 defaulted and loses his or her right to an administrative review  
18 unless the department finds good cause for a request after the  
19 fifteen-day period.

20 (a) An administrative review under this subsection shall consist  
21 solely of an internal review of documents and records submitted or  
22 available to the department, unless the person requests an interview  
23 before the department, in which case all or any part of the  
24 administrative review may, at the discretion of the department, be  
25 conducted by telephone or other electronic means.

26 (b) The only issues to be addressed in the administrative review  
27 are:

28 (i) Whether the records relied on by the department identify the  
29 correct person; and

30 (ii) Whether the information transmitted from the court or other  
31 reporting agency or entity regarding the person accurately describes  
32 the action taken by the court or other reporting agency or entity.

33 (c) For the purposes of this section, the notice received from a  
34 court or other reporting agency or entity, regardless of form or  
35 format, is prima facie evidence that the information from the court  
36 or other reporting agency or entity regarding the person is accurate.  
37 A person requesting administrative review has the burden of showing  
38 by a preponderance of the evidence that the person is not subject to  
39 the withholding of the driving privilege.



1 (d) The action subject to the notification requirements of  
2 subsection (1) of this section shall be stayed during the  
3 administrative review process.

4 (e) Judicial review of a department order affirming the action  
5 subject to the notification requirements of subsection (1) of this  
6 section after an administrative review shall be available in the same  
7 manner as provided in RCW 46.20.308(~~((9))~~) (8). The department shall  
8 certify its record to the court within thirty days after service upon  
9 the department of the petition for judicial review. The action  
10 subject to the notification requirements of subsection (1) of this  
11 section shall not automatically be stayed during the judicial review.  
12 If judicial relief is sought for a stay or other temporary remedy  
13 from the department's action, the court shall not grant relief unless  
14 the court finds that the appellant is likely to prevail in the appeal  
15 and that without a stay the appellant will suffer irreparable injury.

16 (~~((3))~~) (4) The department may adopt rules that are considered  
17 necessary or convenient by the department for purposes of  
18 administering this section, including, but not limited to, rules  
19 regarding expedited procedures for issuing orders and expedited  
20 notice procedures.

21 (~~((4))~~) (5) This section does not apply where an opportunity for  
22 an informal settlement, driver improvement interview, or formal  
23 hearing is otherwise provided by law or rule of the department.

24 **Sec. 7.** RCW 46.20.3101 and 2016 c 203 s 18 are each amended to  
25 read as follows:

26 Pursuant to RCW 46.20.308, the department shall suspend, revoke,  
27 or deny the arrested person's license, permit, or privilege to drive  
28 as follows:

29 (1) In the case of a person who has refused a test or tests:

30 (a) For a first refusal within seven years, where there has not  
31 been a previous incident within seven years that resulted in  
32 administrative action under this section, revocation or denial for  
33 one year;

34 (b) For a second or subsequent refusal within seven years, or for  
35 a first refusal where there has been one or more previous incidents  
36 within seven years that have resulted in administrative action under  
37 this section, revocation or denial for two years or until the person  
38 reaches age twenty-one, whichever is longer.

1 (2) In the case of an incident where a person has submitted to or  
2 been administered a test or tests indicating that the alcohol  
3 concentration of the person's breath or blood was 0.08 or more, or  
4 that the THC concentration of the person's blood was 5.00 or more:

5 (a) For a first incident within seven years, where there has not  
6 been a previous incident within seven years that resulted in  
7 administrative action under this section, suspension for ninety days,  
8 unless the person successfully completes or is enrolled in a pretrial  
9 24/7 sobriety program;

10 (b) For a second or subsequent incident within seven years,  
11 revocation or denial for two years.

12 (3) In the case of an incident where a person under age twenty-  
13 one has submitted to or been administered a test or tests indicating  
14 that the alcohol concentration of the person's breath or blood was  
15 0.02 or more, or that the THC concentration of the person's blood was  
16 above 0.00:

17 (a) For a first incident within seven years, suspension or denial  
18 for ninety days;

19 (b) For a second or subsequent incident within seven years,  
20 revocation or denial for one year or until the person reaches age  
21 twenty-one, whichever is longer.

22 (4) The department shall grant credit on a day-for-day basis for  
23 ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~  
24 ~~served))~~ imposed under this section for any portion of a suspension,  
25 revocation, or denial ~~((imposed))~~ already served under RCW 46.61.5055  
26 arising out of the same incident. If a person has already served a  
27 suspension, revocation, or denial under RCW 46.61.5055 for a period  
28 equal to or greater than the period imposed under this section, the  
29 department shall provide notice of full credit, shall provide for no  
30 further suspension or revocation under this section, and shall impose  
31 no additional reissue fees for this credit.

32 **Sec. 8.** RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are  
33 each reenacted and amended to read as follows:

34 (1) Upon receipt of an abstract indicating a deferred prosecution  
35 has been granted under RCW 10.05.060, or upon receipt of a notice of  
36 conviction of RCW 46.61.502 or 46.61.504, the department of licensing  
37 shall order the person to surrender any nonprobationary Washington  
38 state driver's license that may be in his or her possession. The  
39 department shall revoke the license, permit, or privilege to drive of

1 any person who fails to surrender it as required by this section for  
2 one year, unless the license has been previously surrendered to the  
3 department, a law enforcement officer, or a court, or the person has  
4 completed an affidavit of lost, stolen, destroyed, or previously  
5 surrendered license, such revocation to take effect thirty days after  
6 notice is given of the requirement for license surrender.

7 (2) The department shall place a person's driving privilege in  
8 probationary status as required by RCW 10.05.060 or 46.61.5055 for a  
9 period of five years from the date the probationary status is  
10 required to go into effect.

11 (3) Following receipt of an abstract indicating a deferred  
12 prosecution has been granted under RCW 10.05.060, or upon  
13 reinstatement or reissuance of a driver's license suspended or  
14 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,  
15 the department shall require the person to obtain a probationary  
16 license in order to operate a motor vehicle in the state of  
17 Washington, except as otherwise exempt under RCW 46.20.025. The  
18 department shall not issue the probationary license unless the person  
19 is otherwise qualified for licensing, and the person must renew the  
20 probationary license on the same cycle as the person's regular  
21 license would have been renewed until the expiration of the five-year  
22 probationary status period imposed under subsection (2) of this  
23 section.

24 (4) If a person is eligible for full credit under RCW  
25 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued  
26 under RCW 46.20.245, has completed the requirements under RCW  
27 46.20.311 and paid the fee under subsection (5) of this section, the  
28 department shall issue a probationary license on the date specified  
29 in the notice with no further action required of the person.

30 (5) For each original issue or renewal of a probationary license  
31 under this section, the department shall charge a fee of fifty  
32 dollars in addition to any other licensing fees required. Except for  
33 when renewing a probationary license, the department shall waive the  
34 requirement to obtain an additional probationary license and the  
35 fifty dollar fee if the person has a probationary license in his or  
36 her possession at the time a new probationary license is required.

37 ~~((+5))~~ (6) A probationary license shall enable the department  
38 and law enforcement personnel to determine that the person is on  
39 probationary status. The fact that a person's driving privilege is in  
40 probationary status or that the person has been issued a probationary

1 license shall not be a part of the person's record that is available  
2 to insurance companies.

3 **Sec. 9.** RCW 46.20.720 and 2017 c 336 s 5 are each amended to  
4 read as follows:

5 (1) **Ignition interlock restriction.** The department shall require  
6 that a person may drive only a motor vehicle equipped with a  
7 functioning ignition interlock device:

8 (a) **Pretrial release.** Upon receipt of notice from a court that an  
9 ignition interlock device restriction has been imposed under RCW  
10 10.21.055;

11 (b) **Ignition interlock driver's license.** As required for issuance  
12 of an ignition interlock driver's license under RCW 46.20.385;

13 (c) **Deferred prosecution.** Upon receipt of notice from a court  
14 that the person is participating in a deferred prosecution program  
15 under RCW 10.05.020 for a violation of:

16 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;  
17 or

18 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance  
19 if the person would be required under RCW 46.61.5249(4) or  
20 46.61.500(3) (a) or (b) to install an ignition interlock device on  
21 all vehicles operated by the person in the event of a conviction;

22 (d) **Post conviction.** After any applicable period of mandatory  
23 suspension, revocation, or denial of driving privileges:

24 (i) Due to a conviction of a violation of RCW 46.61.502 or  
25 46.61.504 or an equivalent local or out-of-state statute or  
26 ordinance; or

27 (ii) Due to a conviction of a violation of RCW 46.61.5249 or  
28 46.61.500 or an equivalent local ordinance if the person is required  
29 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an  
30 ignition interlock device on all vehicles operated by the person; or

31 (e) **Court order.** Upon receipt of an order by a court having  
32 jurisdiction that a person charged or convicted of any offense  
33 involving the use, consumption, or possession of alcohol while  
34 operating a motor vehicle may drive only a motor vehicle equipped  
35 with a functioning ignition interlock. The court shall establish a  
36 specific calibration setting at which the ignition interlock will  
37 prevent the vehicle from being started. The court shall also  
38 establish the period of time for which ignition interlock use will be  
39 required.

1 (2) **Calibration.** Unless otherwise specified by the court for a  
2 restriction imposed under subsection (1)(e) of this section, the  
3 ignition interlock device shall be calibrated to prevent the motor  
4 vehicle from being started when the breath sample provided has an  
5 alcohol concentration of (~~0.025~~) 0.020 or more.

6 (3) **Duration of restriction.** A restriction imposed under:

7 (a) Subsection (1)(a) of this section shall remain in effect  
8 until:

9 (i) The court has authorized the removal of the device under RCW  
10 10.21.055; or

11 (ii) The department has imposed a restriction under subsection  
12 (1)(b), (c), or (d) of this section arising out of the same incident.

13 (b) Subsection (1)(b) of this section remains in effect during  
14 the validity of any ignition interlock driver's license that has been  
15 issued to the person.

16 (c) Subsection (1)(c)(i) or (d)(i) of this section shall be for  
17 no less than:

18 (i) For a person who has not previously been restricted under  
19 this subsection, a period of one year;

20 (ii) For a person who has previously been restricted under (c)(i)  
21 of this subsection, a period of five years;

22 (iii) For a person who has previously been restricted under  
23 (c)(ii) of this subsection, a period of ten years.

24 The restriction of a person who is convicted of a violation of  
25 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who  
26 committed the offense while (~~a~~) one or more passengers under the  
27 age of sixteen (~~was~~) were in the vehicle shall be extended for an  
28 additional (~~six-month~~) period as required by RCW 46.61.5055(6)(a).

29 (d) Subsection (1)(c)(ii) or (d)(ii) of this section shall be for  
30 a period of no less than six months.

31 (e) The period of restriction under (c) or (d) of this subsection  
32 shall be extended by one hundred eighty days whenever the department  
33 receives notice that the restricted person has been convicted under  
34 RCW 46.20.740 or 46.20.750.

35 (f) Subsection (1)(e) of this section shall remain in effect for  
36 the period of time specified by the court.

37 (g) The period of restriction under (c) and (d) of this  
38 subsection based on incidents occurring on or after June 9, 2016,  
39 must be tolled for any period in which the person does not have an  
40 ignition interlock device installed on a vehicle owned or operated by

1 the person unless the person receives a determination from the  
2 department that the person is unable to operate an ignition interlock  
3 device due to a physical disability. The department's determination  
4 that a person is unable to operate an ignition interlock device must  
5 be reasonable and be based upon good and substantial evidence. This  
6 determination is subject to review by a court of competent  
7 jurisdiction. The department may charge a person seeking a medical  
8 exemption under this subsection a reasonable fee for the assessment.

9 (4) **Requirements for removal.** A restriction imposed under  
10 subsection (1)(c) or (d) of this section shall remain in effect until  
11 the department receives a declaration from the person's ignition  
12 interlock device vendor, in a form provided or approved by the  
13 department, certifying that there have been none of the following  
14 incidents in the one hundred eighty consecutive days prior to the  
15 date of release:

16 (a) Any attempt to start the vehicle with a breath alcohol  
17 concentration of 0.04 or more unless a subsequent test performed  
18 within ten minutes registers a breath alcohol concentration lower  
19 than 0.04 and the digital image confirms the same person provided  
20 both samples;

21 (b) Failure to take any random test unless a review of the  
22 digital image confirms that the vehicle was not occupied by the  
23 driver at the time of the missed test;

24 (c) Failure to pass any random retest with a breath alcohol  
25 concentration of (~~(0.025)~~) 0.020 or lower unless a subsequent test  
26 performed within ten minutes registers a breath alcohol concentration  
27 lower than (~~(0.025)~~) 0.020, and the digital image confirms the same  
28 person provided both samples; or

29 (d) Failure of the person to appear at the ignition interlock  
30 device vendor when required for maintenance, repair, calibration,  
31 monitoring, inspection, or replacement of the device.

32 (5) **Day-for-day credit.** (a) The time period during which a person  
33 has an ignition interlock device installed in order to meet the  
34 requirements of subsection (1)(b) of this section shall apply on a  
35 day-for-day basis toward satisfying the period of time the ignition  
36 interlock device restriction is imposed under subsection (1)(c) or  
37 (d) of this section arising out of the same incident.

38 (b) The department must also give the person a day-for-day credit  
39 for any time period, beginning from the date of the incident, during  
40 which the person kept an ignition interlock device installed on all

1 vehicles the person operates, other than those subject to the  
2 employer exemption under subsection (6) of this section.

3 (c) If the day-for-day credit granted under this subsection  
4 equals or exceeds the period of time the ignition interlock device  
5 restriction is imposed under subsection (1)(c) or (d) of this section  
6 arising out of the same incident, and the person has already met the  
7 requirements for removal of the device under subsection (4) of this  
8 section, the department may waive the requirement that a device be  
9 installed or that the person again meet the requirements for removal.

10 (6) **Employer exemption.** (a) Except as provided in (b) of this  
11 subsection, the installation of an ignition interlock device is not  
12 necessary on vehicles owned, leased, or rented by a person's employer  
13 and on those vehicles whose care and/or maintenance is the temporary  
14 responsibility of the employer, and driven at the direction of a  
15 person's employer as a requirement of employment during working  
16 hours. The person must provide the department with a declaration  
17 pursuant to RCW 9A.72.085 from his or her employer stating that the  
18 person's employment requires the person to operate a vehicle owned by  
19 the employer or other persons during working hours.

20 (b) The employer exemption does not apply when the employer's  
21 vehicle is assigned exclusively to the restricted driver and used  
22 solely for commuting to and from employment.

23 (7) **Ignition interlock device revolving account.** In addition to  
24 any other costs associated with the use of an ignition interlock  
25 device imposed on the person restricted under this section, the  
26 person shall pay an additional fee of twenty dollars per month.  
27 Payments must be made directly to the ignition interlock company. The  
28 company shall remit the additional fee to the department to be  
29 deposited into the ignition interlock device revolving account,  
30 except that the company may retain twenty-five cents per month of the  
31 additional fee to cover the expenses associated with administering  
32 the fee. The department may waive the monthly fee if the person is  
33 indigent under RCW 10.101.010.

34 (8) **Foreign jurisdiction.** For a person restricted under this  
35 section who is residing outside of the state of Washington, the  
36 department may accept verification of installation of an ignition  
37 interlock device by an ignition interlock company authorized to do  
38 business in the jurisdiction in which the person resides, provided  
39 the device meets any applicable requirements of that jurisdiction.  
40 The department may waive the monthly fee required by subsection (7)

1 of this section if collection of the fee would be impractical in the  
2 case of a person residing in another jurisdiction.

3 **Sec. 10.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each  
4 amended to read as follows:

5 (1) The department shall attach or imprint a notation on the  
6 driving record of any person restricted under RCW 46.20.720,  
7 46.61.5055, or 10.05.140 stating that the person may operate only a  
8 motor vehicle equipped with a functioning ignition interlock device.  
9 The department shall determine the person's eligibility for licensing  
10 based upon written verification by a company doing business in the  
11 state that it has installed the required device on a vehicle owned or  
12 operated by the person seeking reinstatement. If, based upon  
13 notification from the interlock provider or otherwise, the department  
14 determines that an ignition interlock required under this section is  
15 no longer installed or functioning as required, the department shall  
16 suspend the person's license or privilege to drive. Whenever the  
17 license or driving privilege of any person is suspended or revoked as  
18 a result of noncompliance with an ignition interlock requirement, the  
19 suspension shall remain in effect until the person provides notice  
20 issued by a company doing business in the state that a vehicle owned  
21 or operated by the person is equipped with a functioning ignition  
22 interlock device.

23 (2) It is a gross misdemeanor for a person with such a notation  
24 on his or her driving record to operate a motor vehicle that is not  
25 so equipped, unless the notation resulted from a restriction imposed  
26 as a condition of release and the restriction has been released by  
27 the court prior to driving. Any time a person is convicted under this  
28 section, the court shall immediately notify the department for  
29 purposes of RCW 46.20.720(3)(e).

30 (3) Any sentence imposed for a violation of subsection (2) of  
31 this section shall be served consecutively with any sentence imposed  
32 under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

33 **Sec. 11.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each  
34 amended to read as follows:

35 (1) A person who is restricted to the use of a vehicle equipped  
36 with an ignition interlock device is guilty of a gross misdemeanor if  
37 the restricted driver:



1 (a) Tamper with the device by modifying, detaching,  
2 disconnecting, or otherwise disabling it to allow the restricted  
3 driver to operate the vehicle;

4 (b) Uses or requests another person to use a filter or other  
5 device to circumvent the ignition interlock or to start or operate  
6 the vehicle to allow the restricted driver to operate the vehicle;

7 (c) Has, directs, authorizes, or requests another person to  
8 tamper with the device by modifying, detaching, disconnecting, or  
9 otherwise disabling it to allow the restricted driver to operate the  
10 vehicle; or

11 (d) Has, allows, directs, authorizes, or requests another person  
12 to blow or otherwise exhale into the device in order to circumvent  
13 the device to allow the restricted driver to operate the vehicle.

14 (2) A person who knowingly assists another person who is  
15 restricted to the use of a vehicle equipped with an ignition  
16 interlock device to circumvent the device or to start and operate  
17 that vehicle is guilty of a gross misdemeanor. The provisions of this  
18 subsection do not apply if the starting of a motor vehicle, or the  
19 request to start a motor vehicle, equipped with an ignition interlock  
20 device is done for the purpose of safety or mechanical repair of the  
21 device or the vehicle and the person subject to the court order does  
22 not operate the vehicle.

23 (3) Any sentence imposed for a violation of subsection (1) of  
24 this section shall be served consecutively with any sentence imposed  
25 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,  
26 46.61.520(1)(a), or 46.61.522(1)(b).

27 (4) Any time a person is convicted under subsection (1) of this  
28 section, the court shall immediately notify the department for  
29 purposes of RCW 46.20.720(3)(e).

30 **Sec. 12.** RCW 46.55.113 and 2011 c 167 s 6 are each amended to  
31 read as follows:

32 (1) Whenever the driver of a vehicle is arrested for a violation  
33 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary  
34 impoundment, pursuant to the terms and conditions of an applicable  
35 local ordinance or state agency rule at the direction of a law  
36 enforcement officer.

37 (2) In addition, a police officer may take custody of a vehicle,  
38 at his or her discretion, and provide for its prompt removal to a  
39 place of safety under any of the following circumstances:

1 (a) Whenever a police officer finds a vehicle standing upon the  
2 roadway in violation of any of the provisions of RCW 46.61.560, the  
3 officer may provide for the removal of the vehicle or require the  
4 driver or other person in charge of the vehicle to move the vehicle  
5 to a position off the roadway;

6 (b) Whenever a police officer finds a vehicle unattended upon a  
7 highway where the vehicle constitutes an obstruction to traffic or  
8 jeopardizes public safety;

9 (c) Whenever a police officer finds an unattended vehicle at the  
10 scene of an accident or when the driver of a vehicle involved in an  
11 accident is physically or mentally incapable of deciding upon steps  
12 to be taken to protect his or her property;

13 (d) Whenever the driver of a vehicle is arrested and taken into  
14 custody by a police officer;

15 (e) Whenever a police officer discovers a vehicle that the  
16 officer determines to be a stolen vehicle;

17 (f) Whenever a vehicle without a special license plate, placard,  
18 or decal indicating that the vehicle is being used to transport a  
19 person with disabilities under RCW 46.19.010 is parked in a stall or  
20 space clearly and conspicuously marked under RCW 46.61.581 which  
21 space is provided on private property without charge or on public  
22 property;

23 (g) Upon determining that a person is operating a motor vehicle  
24 without a valid and, if required, a specially endorsed driver's  
25 license or with a license that has been expired for ninety days or  
26 more;

27 (h) When a vehicle is illegally occupying a truck, commercial  
28 loading zone, restricted parking zone, bus, loading, hooded-meter,  
29 taxi, street construction or maintenance, or other similar zone  
30 where, by order of the director of transportation or chiefs of police  
31 or fire or their designees, parking is limited to designated classes  
32 of vehicles or is prohibited during certain hours, on designated days  
33 or at all times, if the zone has been established with signage for at  
34 least twenty-four hours and where the vehicle is interfering with the  
35 proper and intended use of the zone. Signage must give notice to the  
36 public that a vehicle will be removed if illegally parked in the  
37 zone;

38 (i) When a vehicle with an expired registration of more than  
39 forty-five days is parked on a public street;

1        (j) Upon determining that a person restricted to use of only a  
2 motor vehicle equipped with a functioning ignition interlock device  
3 is operating a motor vehicle that is not equipped with such a device  
4 in violation of RCW 46.20.740(2).

5        (3) When an arrest is made for a violation of RCW 46.20.342, if  
6 the vehicle is a commercial vehicle or farm transport vehicle and the  
7 driver of the vehicle is not the owner of the vehicle, before the  
8 summary impoundment directed under subsection (1) of this section,  
9 the police officer shall attempt in a reasonable and timely manner to  
10 contact the owner of the vehicle and may release the vehicle to the  
11 owner if the owner is reasonably available, as long as the owner was  
12 not in the vehicle at the time of the stop and arrest and the owner  
13 has not received a prior release under this subsection or RCW  
14 46.55.120(1) ~~((a))~~ (b) (ii).

15        (4) Nothing in this section may derogate from the powers of  
16 police officers under the common law. For the purposes of this  
17 section, a place of safety may include the business location of a  
18 registered tow truck operator.

19        (5) For purposes of this section "farm transport vehicle" means a  
20 motor vehicle owned by a farmer and that is being actively used in  
21 the transportation of the farmer's or another farmer's farm, orchard,  
22 aquatic farm, or dairy products, including livestock and plant or  
23 animal wastes, from point of production to market or disposal, or  
24 supplies or commodities to be used on the farm, orchard, aquatic  
25 farm, or dairy, and that has a gross vehicle weight rating of 7,258  
26 kilograms (16,001 pounds) or more.

27        **Sec. 13.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to  
28 read as follows:

29        (1) Any person who drives any vehicle in willful or wanton  
30 disregard for the safety of persons or property is guilty of reckless  
31 driving. Violation of the provisions of this section is a gross  
32 misdemeanor punishable by imprisonment for up to three hundred sixty-  
33 four days and by a fine of not more than five thousand dollars.

34        (2) (a) Subject to (b) of this subsection, the license or permit  
35 to drive or any nonresident privilege of any person convicted of  
36 reckless driving shall be suspended by the department for not less  
37 than thirty days.

38        (b) When a reckless driving conviction is a result of a charge  
39 that was originally filed as a violation of RCW 46.61.502 or

1 46.61.504, or an equivalent local ordinance, the department shall  
2 grant credit on a day-for-day basis for any portion of a suspension,  
3 revocation, or denial already served under an administrative action  
4 arising out of the same incident. In the case of a person whose day-  
5 for-day credit is for a period equal to or greater than the period of  
6 suspension required under this section, the department shall provide  
7 notice of full credit, shall provide for no further suspension under  
8 this section, and shall impose no additional reissue fees for this  
9 credit. During any period of suspension, revocation, or denial due to  
10 a conviction for reckless driving as the result of a charge  
11 originally filed as a violation of RCW 46.61.502 or 46.61.504, any  
12 person who has obtained an ignition interlock driver's license under  
13 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the  
14 provision of the ignition interlock driver's license without  
15 obtaining a separate temporary restricted driver's license under RCW  
16 46.20.391.

17 (3) (a) Except as provided under (b) of this subsection, a person  
18 convicted of reckless driving who has one or more prior offenses as  
19 defined in RCW 46.61.5055(14) within seven years shall be required,  
20 under RCW 46.20.720, to install an ignition interlock device on all  
21 vehicles operated by the person if the conviction is the result of a  
22 charge that was originally filed as a violation of RCW 46.61.502,  
23 46.61.504, or an equivalent local ordinance.

24 (b) A person convicted of reckless driving shall be required,  
25 under RCW 46.20.720, to install an ignition interlock device on all  
26 vehicles operated by the person if the conviction is the result of a  
27 charge that was originally filed as a violation of RCW 46.61.520  
28 committed while under the influence of intoxicating liquor or any  
29 drug or RCW 46.61.522 committed while under the influence of  
30 intoxicating liquor or any drug.

31 **Sec. 14.** RCW 46.61.503 and 2015 2nd sp.s. c 3 s 14 are each  
32 amended to read as follows:

33 (1) Notwithstanding any other provision of this title, a person  
34 is guilty of driving or being in physical control of a motor vehicle  
35 after consuming alcohol or marijuana if the person operates or is in  
36 physical control of a motor vehicle within this state and the person:

37 (a) Is under the age of twenty-one; and

38 (b) Has, within two hours after operating or being in physical  
39 control of the motor vehicle, either:

1 (i) An alcohol concentration of at least 0.02 but less than the  
2 concentration specified in RCW 46.61.502, as shown by analysis of the  
3 person's breath or blood made under RCW 46.61.506; or

4 (ii) A THC concentration above 0.00 but less than the  
5 concentration specified in RCW 46.61.502, as shown by analysis of the  
6 person's blood made under RCW 46.61.506.

7 (2) It is an affirmative defense to a violation of subsection (1)  
8 of this section, which the defendant must prove by a preponderance of  
9 the evidence, that the defendant consumed a sufficient quantity of  
10 alcohol or marijuana after the time of driving or being in physical  
11 control and before the administration of an analysis of the person's  
12 breath or blood to cause the defendant's alcohol or THC concentration  
13 to be in violation of subsection (1) of this section within two hours  
14 after driving or being in physical control. The court shall not admit  
15 evidence of this defense unless the defendant notifies the  
16 prosecution prior to the earlier of: (a) Seven days prior to trial;  
17 or (b) the omnibus or pretrial hearing in the case of the defendant's  
18 intent to assert the affirmative defense.

19 (3) No person may be convicted under this section for being in  
20 physical control of a motor vehicle and it is an affirmative defense  
21 to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny  
22 the privilege to drive, if, prior to being pursued by a law  
23 enforcement officer, the person has moved the vehicle safely off the  
24 roadway as described in RCW 46.61.504(2).

25 (4) Analyses of blood or breath samples obtained more than two  
26 hours after the alleged driving or being in physical control may be  
27 used as evidence that within two hours of the alleged driving or  
28 being in physical control, a person had an alcohol or THC  
29 concentration in violation of subsection (1) of this section.

30 (5) A violation of this section is a misdemeanor.

31 **Sec. 15.** RCW 46.61.504 and 2017 c 335 s 2 are each amended to  
32 read as follows:

33 (1) A person is guilty of being in actual physical control of a  
34 motor vehicle while under the influence of intoxicating liquor or any  
35 drug if the person has actual physical control of a vehicle within  
36 this state:

37 (a) And the person has, within two hours after being in actual  
38 physical control of the vehicle, an alcohol concentration of 0.08 or

1 higher as shown by analysis of the person's breath or blood made  
2 under RCW 46.61.506; or

3 (b) The person has, within two hours after being in actual  
4 physical control of a vehicle, a THC concentration of 5.00 or higher  
5 as shown by analysis of the person's blood made under RCW 46.61.506;  
6 or

7 (c) While the person is under the influence of or affected by  
8 intoxicating liquor or any drug; or

9 (d) While the person is under the combined influence of or  
10 affected by intoxicating liquor and any drug.

11 (2) The fact that a person charged with a violation of this  
12 section is or has been entitled to use a drug under the laws of this  
13 state does not constitute a defense against any charge of violating  
14 this section. No person may be convicted under this section and it is  
15 an affirmative defense to any action pursuant to RCW 46.20.308 to  
16 suspend, revoke, or deny the privilege to drive if, prior to being  
17 pursued by a law enforcement officer, the person has moved the  
18 vehicle safely off the roadway. A vehicle is safely off the roadway  
19 if:

20 (a) The suspected impaired person is not in the driver's seat of  
21 the vehicle;

22 (b) The vehicle is not parked in an area designated for through  
23 traffic or in any place not authorized for motor vehicle traffic or  
24 parking; and

25 (c) The vehicle's engine is off.

26 (3) (a) It is an affirmative defense to a violation of subsection  
27 (1)(a) of this section which the defendant must prove by a  
28 preponderance of the evidence that the defendant consumed a  
29 sufficient quantity of alcohol after the time of being in actual  
30 physical control of the vehicle and before the administration of an  
31 analysis of the person's breath or blood to cause the defendant's  
32 alcohol concentration to be 0.08 or more within two hours after being  
33 in such control. The court shall not admit evidence of this defense  
34 unless the defendant notifies the prosecution prior to the omnibus or  
35 pretrial hearing in the case of the defendant's intent to assert the  
36 affirmative defense.

37 (b) It is an affirmative defense to a violation of subsection  
38 (1)(b) of this section, which the defendant must prove by a  
39 preponderance of the evidence, that the defendant consumed a  
40 sufficient quantity of marijuana after the time of being in actual

1 physical control of the vehicle and before the administration of an  
2 analysis of the person's blood to cause the defendant's THC  
3 concentration to be 5.00 or more within two hours after being in  
4 control of the vehicle. The court shall not admit evidence of this  
5 defense unless the defendant notifies the prosecution prior to the  
6 omnibus or pretrial hearing in the case of the defendant's intent to  
7 assert the affirmative defense.

8 (4) (a) Analyses of blood or breath samples obtained more than two  
9 hours after the alleged being in actual physical control of a vehicle  
10 may be used as evidence that within two hours of the alleged being in  
11 such control, a person had an alcohol concentration of 0.08 or more  
12 in violation of subsection (1) (a) of this section, and in any case in  
13 which the analysis shows an alcohol concentration above 0.00 may be  
14 used as evidence that a person was under the influence of or affected  
15 by intoxicating liquor or any drug in violation of subsection (1) (c)  
16 or (d) of this section.

17 (b) Analyses of blood samples obtained more than two hours after  
18 the alleged being in actual physical control of a vehicle may be used  
19 as evidence that within two hours of the alleged being in control of  
20 the vehicle, a person had a THC concentration of 5.00 or more in  
21 violation of subsection (1) (b) of this section, and in any case in  
22 which the analysis shows a THC concentration above 0.00 may be used  
23 as evidence that a person was under the influence of or affected by  
24 marijuana in violation of subsection (1) (c) or (d) of this section.

25 (5) Except as provided in subsection (6) of this section, a  
26 violation of this section is a gross misdemeanor.

27 (6) It is a class C felony punishable under chapter 9.94A RCW, or  
28 chapter 13.40 RCW if the person is a juvenile, if:

29 (a) The person has three or more prior offenses within ten years  
30 as defined in RCW 46.61.5055; or

31 (b) The person has ever previously been convicted of:

32 (i) Vehicular homicide while under the influence of intoxicating  
33 liquor or any drug, RCW 46.61.520(1) (a);

34 (ii) Vehicular assault while under the influence of intoxicating  
35 liquor or any drug, RCW 46.61.522(1) (b);

36 (iii) An out-of-state offense comparable to the offense specified  
37 in (b) (i) or (ii) of this subsection; or

38 (iv) A violation of this subsection (6) or RCW 46.61.502(6).

1       **Sec. 16.** RCW 46.61.5055 and 2018 c 201 s 9009 are each amended  
2 to read as follows:

3       (1) **No prior offenses in seven years.** Except as provided in RCW  
4 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
5 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
6 within seven years shall be punished as follows:

7       (a) **Penalty for alcohol concentration less than 0.15.** In the case  
8 of a person whose alcohol concentration was less than 0.15, or for  
9 whom for reasons other than the person's refusal to take a test  
10 offered pursuant to RCW 46.20.308 there is no test result indicating  
11 the person's alcohol concentration:

12       (i) By imprisonment for not less than (~~one day~~) twenty-four  
13 consecutive hours nor more than three hundred sixty-four days.  
14 (~~Twenty-four consecutive hours of the imprisonment may not be~~  
15 ~~suspended unless the court finds that the imposition of this~~  
16 ~~mandatory minimum sentence would impose a substantial risk to the~~  
17 ~~offender's physical or mental well-being. Whenever the mandatory~~  
18 ~~minimum sentence is suspended, the court shall state in writing the~~  
19 ~~reason for granting the suspension and the facts upon which the~~  
20 ~~suspension is based.)) In lieu of the mandatory minimum term of  
21 imprisonment required under this subsection (1)(a)(i), the court, in  
22 its discretion, may order not less than fifteen days of electronic  
23 home monitoring or a ninety-day period of 24/7 sobriety program  
24 monitoring. The court may consider the offender's pretrial 24/7  
25 sobriety program monitoring as fulfilling a portion of posttrial  
26 sentencing. The offender shall pay the cost of electronic home  
27 monitoring. The county or municipality in which the penalty is being  
28 imposed shall determine the cost. The court may also require the  
29 offender's electronic home monitoring device or other separate  
30 alcohol monitoring device to include an alcohol detection  
31 breathalyzer, and the court may restrict the amount of alcohol the  
32 offender may consume during the time the offender is on electronic  
33 home monitoring; and~~

34       (ii) By a fine of not less than three hundred fifty dollars nor  
35 more than five thousand dollars. Three hundred fifty dollars of the  
36 fine may not be suspended unless the court finds the offender to be  
37 indigent; or

38       (b) **Penalty for alcohol concentration at least 0.15.** In the case  
39 of a person whose alcohol concentration was at least 0.15, or for  
40 whom by reason of the person's refusal to take a test offered



1 pursuant to RCW 46.20.308 there is no test result indicating the  
2 person's alcohol concentration:

3 (i) By imprisonment for not less than (~~two days~~) forty-eight  
4 consecutive hours nor more than three hundred sixty-four days.  
5 (~~Forty-eight consecutive hours of the imprisonment may not be~~  
6 ~~suspended unless the court finds that the imposition of this~~  
7 ~~mandatory minimum sentence would impose a substantial risk to the~~  
8 ~~offender's physical or mental well-being. Whenever the mandatory~~  
9 ~~minimum sentence is suspended, the court shall state in writing the~~  
10 ~~reason for granting the suspension and the facts upon which the~~  
11 ~~suspension is based.)) In lieu of the mandatory minimum term of~~  
12 imprisonment required under this subsection (1)(b)(i), the court, in  
13 its discretion, may order not less than thirty days of electronic  
14 home monitoring or a one hundred twenty day period of 24/7 sobriety  
15 program monitoring. The court may consider the offender's pretrial  
16 24/7 sobriety program testing as fulfilling a portion of posttrial  
17 sentencing. The offender shall pay the cost of electronic home  
18 monitoring. The county or municipality in which the penalty is being  
19 imposed shall determine the cost. The court may also require the  
20 offender's electronic home monitoring device to include an alcohol  
21 detection breathalyzer or other separate alcohol monitoring device,  
22 and the court may restrict the amount of alcohol the offender may  
23 consume during the time the offender is on electronic home  
24 monitoring; and

25 (ii) By a fine of not less than five hundred dollars nor more  
26 than five thousand dollars. Five hundred dollars of the fine may not  
27 be suspended unless the court finds the offender to be indigent.

28 (2) **One prior offense in seven years.** Except as provided in RCW  
29 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
30 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
31 within seven years shall be punished as follows:

32 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
33 of a person whose alcohol concentration was less than 0.15, or for  
34 whom for reasons other than the person's refusal to take a test  
35 offered pursuant to RCW 46.20.308 there is no test result indicating  
36 the person's alcohol concentration:

37 (i) By imprisonment for not less than thirty days nor more than  
38 three hundred sixty-four days and sixty days of electronic home  
39 monitoring. Thirty days of imprisonment and sixty days of electronic  
40 home monitoring may not be suspended unless the court finds that the

1 imposition of this mandatory minimum sentence would impose a  
2 substantial risk to the offender's physical or mental well-being. If  
3 the offender shows that the imposition of this mandatory minimum  
4 sentence would impose a substantial risk to the offender's physical  
5 or mental well-being, in lieu of the mandatory term of imprisonment  
6 and electronic home monitoring under this subsection (2)(a)(i), the  
7 court may order a minimum of (~~four days in jail and~~) either one  
8 hundred eighty days of electronic home monitoring or a one hundred  
9 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW  
10 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
11 sentence is suspended, the court shall state in writing the reason  
12 for granting the suspension and the facts upon which the suspension  
13 is based. The court may consider the offender's pretrial 24/7  
14 sobriety program monitoring as fulfilling a portion of posttrial  
15 sentencing. The court shall order an expanded alcohol assessment and  
16 treatment, if deemed appropriate by the assessment. The offender  
17 shall pay for the cost of the electronic monitoring. The county or  
18 municipality where the penalty is being imposed shall determine the  
19 cost. The court may also require the offender's electronic home  
20 monitoring device include an alcohol detection breathalyzer or other  
21 separate alcohol monitoring device, and may restrict the amount of  
22 alcohol the offender may consume during the time the offender is on  
23 electronic home monitoring(~~. Thirty days of imprisonment and sixty~~  
24 ~~days of electronic home monitoring may not be suspended unless the~~  
25 ~~court finds that the imposition of this mandatory minimum sentence~~  
26 ~~would impose a substantial risk to the offender's physical or mental~~  
27 ~~well-being. Whenever the mandatory minimum sentence is suspended, the~~  
28 ~~court shall state in writing the reason for granting the suspension~~  
29 ~~and the facts upon which the suspension is based)); and~~

30 (ii) By a fine of not less than five hundred dollars nor more  
31 than five thousand dollars. Five hundred dollars of the fine may not  
32 be suspended unless the court finds the offender to be indigent; or

33 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
34 of a person whose alcohol concentration was at least 0.15, or for  
35 whom by reason of the person's refusal to take a test offered  
36 pursuant to RCW 46.20.308 there is no test result indicating the  
37 person's alcohol concentration:

38 (i) By imprisonment for not less than forty-five days nor more  
39 than three hundred sixty-four days and ninety days of electronic home  
40 monitoring. Forty-five days of imprisonment and ninety days of

1 electronic home monitoring may not be suspended unless the court  
2 finds that the imposition of this mandatory minimum sentence would  
3 impose a substantial risk to the offender's physical or mental well-  
4 being. If the offender shows that the imposition of this mandatory  
5 minimum sentence would impose a substantial risk to the offender's  
6 physical or mental well-being, in lieu of the mandatory minimum term  
7 of imprisonment and electronic home monitoring under this subsection  
8 (2)(b)(i), the court may order a minimum of ((~~six days in jail and~~))  
9 either six months of electronic home monitoring or a one hundred  
10 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW  
11 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
12 sentence is suspended, the court shall state in writing the reason  
13 for granting the suspension and the facts upon which the suspension  
14 is based. The court may consider the offender's pretrial 24/7  
15 sobriety program monitoring as fulfilling a portion of posttrial  
16 sentencing. The court shall order an expanded alcohol assessment and  
17 treatment, if deemed appropriate by the assessment. The offender  
18 shall pay for the cost of the electronic monitoring. The county or  
19 municipality where the penalty is being imposed shall determine the  
20 cost. The court may also require the offender's electronic home  
21 monitoring device include an alcohol detection breathalyzer or other  
22 separate alcohol monitoring device, and may restrict the amount of  
23 alcohol the offender may consume during the time the offender is on  
24 electronic home monitoring(~~(. Forty-five days of imprisonment and~~  
25 ~~ninety days of electronic home monitoring may not be suspended unless~~  
26 ~~the court finds that the imposition of this mandatory minimum~~  
27 ~~sentence would impose a substantial risk to the offender's physical~~  
28 ~~or mental well-being. Whenever the mandatory minimum sentence is~~  
29 ~~suspended, the court shall state in writing the reason for granting~~  
30 ~~the suspension and the facts upon which the suspension is based));~~  
31 and

32 (ii) By a fine of not less than seven hundred fifty dollars nor  
33 more than five thousand dollars. Seven hundred fifty dollars of the  
34 fine may not be suspended unless the court finds the offender to be  
35 indigent.

36 (3) **Two prior offenses in seven years.** Except as provided in RCW  
37 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
38 violation of RCW 46.61.502 or 46.61.504 and who has two prior  
39 offenses within seven years shall be punished as follows:

1 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
2 of a person whose alcohol concentration was less than 0.15, or for  
3 whom for reasons other than the person's refusal to take a test  
4 offered pursuant to RCW 46.20.308 there is no test result indicating  
5 the person's alcohol concentration:

6 (i) By imprisonment for not less than ninety days nor more than  
7 three hundred sixty-four days, if available in that county or city, a  
8 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
9 36.28A.300 through 36.28A.390, and one hundred twenty days of  
10 electronic home monitoring. Ninety days of imprisonment and one  
11 hundred twenty days of electronic home monitoring may not be  
12 suspended unless the court finds that the imposition of this  
13 mandatory minimum sentence would impose a substantial risk to the  
14 offender's physical or mental well-being. If the offender shows that  
15 the imposition of this mandatory minimum sentence would impose a  
16 substantial risk to the offender's physical or mental well-being, in  
17 lieu of the mandatory minimum term of ninety days of imprisonment and  
18 one hundred twenty days of electronic home monitoring, the court may  
19 order ((at least an additional eight days in jail)) three hundred  
20 sixty days of electronic home monitoring or a three hundred sixty-day  
21 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through  
22 36.28A.390. Whenever the mandatory minimum sentence is suspended, the  
23 court shall state in writing the reason for granting the suspension  
24 and the facts upon which the suspension is based. The court shall  
25 order an expanded alcohol assessment and treatment, if deemed  
26 appropriate by the assessment. The offender shall pay for the cost of  
27 the electronic monitoring. The county or municipality where the  
28 penalty is being imposed shall determine the cost. The court may also  
29 require the offender's electronic home monitoring device include an  
30 alcohol detection breathalyzer or other separate alcohol monitoring  
31 device, and may restrict the amount of alcohol the offender may  
32 consume during the time the offender is on electronic home  
33 monitoring(~~(. Ninety days of imprisonment and one hundred twenty days  
34 of electronic home monitoring may not be suspended unless the court  
35 finds that the imposition of this mandatory minimum sentence would  
36 impose a substantial risk to the offender's physical or mental well-  
37 being. Whenever the mandatory minimum sentence is suspended, the  
38 court shall state in writing the reason for granting the suspension  
39 and the facts upon which the suspension is based))~~); and

1 (ii) By a fine of not less than one thousand dollars nor more  
2 than five thousand dollars. One thousand dollars of the fine may not  
3 be suspended unless the court finds the offender to be indigent; or

4 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
5 of a person whose alcohol concentration was at least 0.15, or for  
6 whom by reason of the person's refusal to take a test offered  
7 pursuant to RCW 46.20.308 there is no test result indicating the  
8 person's alcohol concentration:

9 (i) By imprisonment for not less than one hundred twenty days nor  
10 more than three hundred sixty-four days, if available in that county  
11 or city, a six-month period of 24/7 sobriety program monitoring  
12 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty  
13 days of electronic home monitoring. One hundred twenty days of  
14 imprisonment and one hundred fifty days of electronic home monitoring  
15 may not be suspended unless the court finds that the imposition of  
16 this mandatory minimum sentence would impose a substantial risk to  
17 the offender's physical or mental well-being. If the offender shows  
18 that the imposition of this mandatory minimum sentence would impose a  
19 substantial risk to the offender's physical or mental well-being, in  
20 lieu of the mandatory minimum term of one hundred twenty days of  
21 imprisonment and one hundred fifty days of electronic home  
22 monitoring, the court may order ((at least an additional ten days in  
23 jail)) three hundred sixty days of electronic home monitoring or a  
24 three hundred sixty-day period of 24/7 sobriety monitoring pursuant  
25 to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
26 sentence is suspended, the court shall state in writing the reason  
27 for granting the suspension and the facts upon which the suspension  
28 is based. The offender shall pay for the cost of the electronic  
29 monitoring. The court shall order an expanded alcohol assessment and  
30 treatment, if deemed appropriate by the assessment. The county or  
31 municipality where the penalty is being imposed shall determine the  
32 cost. The court may also require the offender's electronic home  
33 monitoring device include an alcohol detection breathalyzer or other  
34 separate alcohol monitoring device, and may restrict the amount of  
35 alcohol the offender may consume during the time the offender is on  
36 electronic home monitoring(~~(. One hundred twenty days of imprisonment~~  
37 ~~and one hundred fifty days of electronic home monitoring may not be~~  
38 ~~suspended unless the court finds that the imposition of this~~  
39 ~~mandatory minimum sentence would impose a substantial risk to the~~  
40 ~~offender's physical or mental well-being. Whenever the mandatory~~

1 ~~minimum sentence is suspended, the court shall state in writing the~~  
2 ~~reason for granting the suspension and the facts upon which the~~  
3 ~~suspension is based)); and~~

4 (ii) By a fine of not less than one thousand five hundred dollars  
5 nor more than five thousand dollars. One thousand five hundred  
6 dollars of the fine may not be suspended unless the court finds the  
7 offender to be indigent.

8 (4) **Three or more prior offenses in ten years.** A person who is  
9 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be  
10 punished under chapter 9.94A RCW if:

11 (a) The person has three or more prior offenses within ten years;  
12 or

13 (b) The person has ever previously been convicted of:

14 (i) A violation of RCW 46.61.520 committed while under the  
15 influence of intoxicating liquor or any drug;

16 (ii) A violation of RCW 46.61.522 committed while under the  
17 influence of intoxicating liquor or any drug;

18 (iii) An out-of-state offense comparable to the offense specified  
19 in (b) (i) or (ii) of this subsection; or

20 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

21 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall  
22 require any person convicted of a violation of RCW 46.61.502 or  
23 46.61.504 or an equivalent local ordinance to comply with the rules  
24 and requirements of the department regarding the installation and use  
25 of a functioning ignition interlock device installed on all motor  
26 vehicles operated by the person.

27 (b) **Monitoring devices.** If the court orders that a person refrain  
28 from consuming any alcohol, the court may order the person to submit  
29 to alcohol monitoring through an alcohol detection breathalyzer  
30 device, transdermal sensor device, or other technology designed to  
31 detect alcohol in a person's system. The person shall pay for the  
32 cost of the monitoring, unless the court specifies that the cost of  
33 monitoring will be paid with funds that are available from an  
34 alternative source identified by the court. The county or  
35 municipality where the penalty is being imposed shall determine the  
36 cost.

37 (c) **24/7 sobriety program monitoring.** In any county or city where  
38 a 24/7 sobriety program is available and verified by the Washington  
39 association of sheriffs and police chiefs, the court shall:

1 (i) Order the person to install and use a functioning ignition  
2 interlock or other device in lieu of such period of 24/7 sobriety  
3 program monitoring;

4 (ii) Order the person to a period of 24/7 sobriety program  
5 monitoring pursuant to subsections (1) through (3) of this section;  
6 or

7 (iii) Order the person to install and use a functioning ignition  
8 interlock or other device in addition to a period of 24/7 sobriety  
9 program monitoring pursuant to subsections (1) through (3) of this  
10 section.

11 (6) **Penalty for having a minor passenger in vehicle.** If a person  
12 who is convicted of a violation of RCW 46.61.502 or 46.61.504  
13 committed the offense while ((a)) one or more passengers under the  
14 age of sixteen ((was)) were in the vehicle, the court shall:

15 (a) Order the use of an ignition interlock or other device for an  
16 additional six months for each passenger under the age of sixteen;

17 (b) In any case in which the person has no prior offenses within  
18 seven years, and except as provided in RCW 46.61.502(6) or  
19 46.61.504(6), order an additional twenty-four hours of imprisonment  
20 to be served consecutively for each passenger under the age of  
21 sixteen, and a fine of not less than one thousand dollars and not  
22 more than five thousand dollars for each passenger under the age of  
23 sixteen. One thousand dollars of the fine for each passenger under  
24 the age of sixteen may not be suspended unless the court finds the  
25 offender to be indigent;

26 (c) In any case in which the person has one prior offense within  
27 seven years, and except as provided in RCW 46.61.502(6) or  
28 46.61.504(6), order an additional five days of imprisonment to be  
29 served consecutively for each passenger under the age of sixteen, and  
30 a fine of not less than two thousand dollars and not more than five  
31 thousand dollars for each passenger under the age of sixteen. One  
32 thousand dollars of the fine for each passenger under the age of  
33 sixteen may not be suspended unless the court finds the offender to  
34 be indigent;

35 (d) In any case in which the person has two prior offenses within  
36 seven years, and except as provided in RCW 46.61.502(6) or  
37 46.61.504(6), order an additional ten days of imprisonment to be  
38 served consecutively for each passenger under the age of sixteen, and  
39 a fine of not less than three thousand dollars and not more than ten  
40 thousand dollars for each passenger under the age of sixteen. One

1 thousand dollars of the fine for each passenger under the age of  
2 sixteen may not be suspended unless the court finds the offender to  
3 be indigent.

4 (7) **Other items courts must consider while setting penalties.** In  
5 exercising its discretion in setting penalties within the limits  
6 allowed by this section, the court shall particularly consider the  
7 following:

8 (a) Whether the person's driving at the time of the offense was  
9 responsible for injury or damage to another or another's property;

10 (b) Whether at the time of the offense the person was driving or  
11 in physical control of a vehicle with one or more passengers;

12 (c) Whether the driver was driving in the opposite direction of  
13 the normal flow of traffic on a multiple lane highway, as defined by  
14 RCW 46.04.350, with a posted speed limit of forty-five miles per hour  
15 or greater; and

16 (d) Whether a child passenger under the age of sixteen was an  
17 occupant in the driver's vehicle.

18 (8) **Treatment and information school.** An offender punishable  
19 under this section is subject to the alcohol assessment and treatment  
20 provisions of RCW 46.61.5056.

21 (9) **Driver's license privileges of the defendant.** The license,  
22 permit, or nonresident privilege of a person convicted of driving or  
23 being in physical control of a motor vehicle while under the  
24 influence of intoxicating liquor or drugs must:

25 (a) **Penalty for alcohol concentration less than 0.15.** If the  
26 person's alcohol concentration was less than 0.15, or if for reasons  
27 other than the person's refusal to take a test offered under RCW  
28 46.20.308 there is no test result indicating the person's alcohol  
29 concentration:

30 (i) Where there has been no prior offense within seven years, be  
31 suspended or denied by the department for ninety days or until the  
32 person is evaluated by an alcoholism agency or probation department  
33 pursuant to RCW 46.20.311 and the person completes or is enrolled in  
34 a ninety-day period of 24/7 sobriety program monitoring. In no  
35 circumstances shall the license suspension be for fewer than two  
36 days;

37 (ii) Where there has been one prior offense within seven years,  
38 be revoked or denied by the department for two years or until the  
39 person is evaluated by an alcoholism agency or probation department  
40 pursuant to RCW 46.20.311 and the person completes or is enrolled in



1 a six-month period of 24/7 sobriety program monitoring. In no  
2 circumstances shall the license suspension be for less than one year;  
3 or

4 (iii) Where there have been two or more prior offenses within  
5 seven years, be revoked or denied by the department for three years;

6 (b) **Penalty for alcohol concentration at least 0.15.** If the  
7 person's alcohol concentration was at least 0.15:

8 (i) Where there has been no prior offense within seven years, be  
9 revoked or denied by the department for one year or until the person  
10 is evaluated by an alcoholism agency or probation department pursuant  
11 to RCW 46.20.311 and the person completes or is enrolled in a one  
12 hundred twenty day period of 24/7 sobriety program monitoring. In no  
13 circumstances shall the license revocation be for fewer than four  
14 days;

15 (ii) Where there has been one prior offense within seven years,  
16 be revoked or denied by the department for nine hundred days; or

17 (iii) Where there have been two or more prior offenses within  
18 seven years, be revoked or denied by the department for four years;  
19 or

20 (c) **Penalty for refusing to take test.** If by reason of the  
21 person's refusal to take a test offered under RCW 46.20.308, there is  
22 no test result indicating the person's alcohol concentration:

23 (i) Where there have been no prior offenses within seven years,  
24 be revoked or denied by the department for two years;

25 (ii) Where there has been one prior offense within seven years,  
26 be revoked or denied by the department for three years; or

27 (iii) Where there have been two or more previous offenses within  
28 seven years, be revoked or denied by the department for four years.

29 The department shall grant credit on a day-for-day basis for any  
30 portion of a suspension, revocation, or denial already served under  
31 this subsection for a suspension, revocation, or denial imposed under  
32 RCW 46.20.3101 arising out of the same incident.

33 Upon receipt of a notice from the court under RCW 36.28A.390 that  
34 a participant has been removed from a 24/7 sobriety program, the  
35 department must resume any suspension, revocation, or denial that had  
36 been terminated early under this subsection due to participation in  
37 the program, granting credit on a day-for-day basis for any portion  
38 of a suspension, revocation, or denial already served under RCW  
39 46.20.3101 or this section arising out of the same incident.

1           Upon its own motion or upon motion by a person, a court may find,  
2 on the record, that notice to the department under RCW 46.20.270 has  
3 been delayed for three years or more as a result of a clerical or  
4 court error. If so, the court may order that the person's license,  
5 permit, or nonresident privilege shall not be revoked, suspended, or  
6 denied for that offense. The court shall send notice of the finding  
7 and order to the department and to the person. Upon receipt of the  
8 notice from the court, the department shall not revoke, suspend, or  
9 deny the license, permit, or nonresident privilege of the person for  
10 that offense.

11           For purposes of this subsection (9), the department shall refer  
12 to the driver's record maintained under RCW 46.52.120 when  
13 determining the existence of prior offenses.

14           **(10) Probation of driving privilege.** After expiration of any  
15 period of suspension, revocation, or denial of the offender's  
16 license, permit, or privilege to drive required by this section, the  
17 department shall place the offender's driving privilege in  
18 probationary status pursuant to RCW 46.20.355.

19           **(11) Conditions of probation.** (a) In addition to any  
20 nonsuspendable and nondeferrable jail sentence required by this  
21 section, whenever the court imposes up to three hundred sixty-four  
22 days in jail, the court shall also suspend but shall not defer a  
23 period of confinement for a period not exceeding five years. The  
24 court shall impose conditions of probation that include: (i) Not  
25 driving a motor vehicle within this state without a valid license to  
26 drive; (ii) not driving a motor vehicle within this state without  
27 proof of liability insurance or other financial responsibility for  
28 the future pursuant to RCW 46.30.020; (iii) not driving or being in  
29 physical control of a motor vehicle within this state while having an  
30 alcohol concentration of 0.08 or more or a THC concentration of 5.00  
31 nanograms per milliliter of whole blood or higher, within two hours  
32 after driving; (iv) not refusing to submit to a test of his or her  
33 breath or blood to determine alcohol or drug concentration upon  
34 request of a law enforcement officer who has reasonable grounds to  
35 believe the person was driving or was in actual physical control of a  
36 motor vehicle within this state while under the influence of  
37 intoxicating liquor or drug; and (v) not driving a motor vehicle in  
38 this state without a functioning ignition interlock device as  
39 required by the department under RCW 46.20.720. The court may impose  
40 conditions of probation that include nonrepetition, installation of

1 an ignition interlock device on the probationer's motor vehicle,  
2 alcohol or drug treatment, supervised probation, or other conditions  
3 that may be appropriate. The sentence may be imposed in whole or in  
4 part upon violation of a condition of probation during the suspension  
5 period.

6 (b) For each violation of mandatory conditions of probation under  
7 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall  
8 order the convicted person to be confined for thirty days, which  
9 shall not be suspended or deferred.

10 (c) For each incident involving a violation of a mandatory  
11 condition of probation imposed under this subsection, the license,  
12 permit, or privilege to drive of the person shall be suspended by the  
13 court for thirty days or, if such license, permit, or privilege to  
14 drive already is suspended, revoked, or denied at the time the  
15 finding of probation violation is made, the suspension, revocation,  
16 or denial then in effect shall be extended by thirty days. The court  
17 shall notify the department of any suspension, revocation, or denial  
18 or any extension of a suspension, revocation, or denial imposed under  
19 this subsection.

20 (12) **Waiver of electronic home monitoring.** A court may waive the  
21 electronic home monitoring requirements of this chapter when:

22 (a) The offender does not have a dwelling, telephone service, or  
23 any other necessity to operate an electronic home monitoring system.  
24 However, if a court determines that an alcohol monitoring device  
25 utilizing wireless reporting technology is reasonably available, the  
26 court may require the person to obtain such a device during the  
27 period of required electronic home monitoring;

28 (b) The offender does not reside in the state of Washington; or

29 (c) The court determines that there is reason to believe that the  
30 offender would violate the conditions of the electronic home  
31 monitoring penalty.

32 Whenever the mandatory minimum term of electronic home monitoring  
33 is waived, the court shall state in writing the reason for granting  
34 the waiver and the facts upon which the waiver is based, and shall  
35 impose an alternative sentence with similar punitive consequences.  
36 The alternative sentence may include, but is not limited to, use of  
37 an ignition interlock device, the 24/7 sobriety program monitoring,  
38 additional jail time, work crew, or work camp.

39 Whenever the combination of jail time and electronic home  
40 monitoring or alternative sentence would exceed three hundred sixty-

1 four days, the offender shall serve the jail portion of the sentence  
2 first, and the electronic home monitoring or alternative portion of  
3 the sentence shall be reduced so that the combination does not exceed  
4 three hundred sixty-four days.

5 (13) **Extraordinary medical placement.** An offender serving a  
6 sentence under this section, whether or not a mandatory minimum term  
7 has expired, may be granted an extraordinary medical placement by the  
8 jail administrator subject to the standards and limitations set forth  
9 in RCW 9.94A.728(1) (c).

10 (14) **Definitions.** For purposes of this section and RCW 46.61.502  
11 and 46.61.504:

12 (a) A "prior offense" means any of the following:

13 (i) A conviction for a violation of RCW 46.61.502 or an  
14 equivalent local ordinance;

15 (ii) A conviction for a violation of RCW 46.61.504 or an  
16 equivalent local ordinance;

17 (iii) A conviction for a violation of RCW 46.25.110 or an  
18 equivalent local ordinance;

19 (iv) A conviction for a violation of RCW 79A.60.040(2) or an  
20 equivalent local ordinance;

21 (v) A conviction for a violation of RCW 79A.60.040(1) or an  
22 equivalent local ordinance committed in a reckless manner if the  
23 conviction is the result of a charge that was originally filed as a  
24 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

25 (vi) A conviction for a violation of RCW 47.68.220 or an  
26 equivalent local ordinance committed while under the influence of  
27 intoxicating liquor or any drug;

28 (vii) A conviction for a violation of RCW 47.68.220 or an  
29 equivalent local ordinance committed in a careless or reckless manner  
30 if the conviction is the result of a charge that was originally filed  
31 as a violation of RCW 47.68.220 or an equivalent local ordinance  
32 while under the influence of intoxicating liquor or any drug;

33 (viii) A conviction for a violation of RCW 46.09.470(2) or an  
34 equivalent local ordinance;

35 (ix) A conviction for a violation of RCW 46.10.490(2) or an  
36 equivalent local ordinance;

37 (x) A conviction for a violation of RCW 46.61.520 committed while  
38 under the influence of intoxicating liquor or any drug, or a  
39 conviction for a violation of RCW 46.61.520 committed in a reckless  
40 manner or with the disregard for the safety of others if the

1 conviction is the result of a charge that was originally filed as a  
2 violation of RCW 46.61.520 committed while under the influence of  
3 intoxicating liquor or any drug;

4 (xi) A conviction for a violation of RCW 46.61.522 committed  
5 while under the influence of intoxicating liquor or any drug, or a  
6 conviction for a violation of RCW 46.61.522 committed in a reckless  
7 manner or with the disregard for the safety of others if the  
8 conviction is the result of a charge that was originally filed as a  
9 violation of RCW 46.61.522 committed while under the influence of  
10 intoxicating liquor or any drug;

11 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,  
12 or 9A.36.050 or an equivalent local ordinance, if the conviction is  
13 the result of a charge that was originally filed as a violation of  
14 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of  
15 RCW 46.61.520 or 46.61.522;

16 (xiii) An out-of-state conviction for a violation that would have  
17 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this  
18 subsection if committed in this state;

19 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a  
20 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
21 equivalent local ordinance;

22 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
23 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
24 ordinance, if the charge under which the deferred prosecution was  
25 granted was originally filed as a violation of RCW 46.61.502 or  
26 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
27 46.61.522;

28 (xvi) A deferred prosecution granted in another state for a  
29 violation of driving or having physical control of a vehicle while  
30 under the influence of intoxicating liquor or any drug if the out-of-  
31 state deferred prosecution is equivalent to the deferred prosecution  
32 under chapter 10.05 RCW, including a requirement that the defendant  
33 participate in a chemical dependency treatment program; or

34 (xvii) A deferred sentence imposed in a prosecution for a  
35 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
36 equivalent local ordinance, if the charge under which the deferred  
37 sentence was imposed was originally filed as a violation of RCW  
38 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
39 violation of RCW 46.61.520 or 46.61.522;

1 If a deferred prosecution is revoked based on a subsequent  
2 conviction for an offense listed in this subsection (14)(a), the  
3 subsequent conviction shall not be treated as a prior offense of the  
4 revoked deferred prosecution for the purposes of sentencing;

5 (b) "Treatment" means substance use disorder treatment licensed  
6 or certified by the department of health;

7 (c) "Within seven years" means that the arrest for a prior  
8 offense occurred within seven years before or after the arrest for  
9 the current offense; and

10 (d) "Within ten years" means that the arrest for a prior offense  
11 occurred within ten years before or after the arrest for the current  
12 offense.

13 (15) All fines imposed by this section apply to adult offenders  
14 only.

15 **Sec. 17.** RCW 46.61.5055 and 2019 c . . . s 16 (section 16 of  
16 this act) are each amended to read as follows:

17 (1) **No prior offenses in seven years.** Except as provided in RCW  
18 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
19 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
20 within seven years shall be punished as follows:

21 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
22 of a person whose alcohol concentration was less than 0.15, or for  
23 whom for reasons other than the person's refusal to take a test  
24 offered pursuant to RCW 46.20.308 there is no test result indicating  
25 the person's alcohol concentration:

26 (i) By imprisonment for not less than twenty-four consecutive  
27 hours nor more than three hundred sixty-four days. In lieu of the  
28 mandatory minimum term of imprisonment required under this subsection  
29 (1)(a)(i), the court, in its discretion, may order not less than  
30 fifteen days of electronic home monitoring or a ninety-day period of  
31 24/7 sobriety program monitoring. The court may consider the  
32 offender's pretrial 24/7 sobriety program monitoring as fulfilling a  
33 portion of posttrial sentencing. The offender shall pay the cost of  
34 electronic home monitoring. The county or municipality in which the  
35 penalty is being imposed shall determine the cost. The court may also  
36 require the offender's electronic home monitoring device or other  
37 separate alcohol monitoring device to include an alcohol detection  
38 breathalyzer, and the court may restrict the amount of alcohol the

1 offender may consume during the time the offender is on electronic  
2 home monitoring; and

3 (ii) By a fine of not less than three hundred fifty dollars nor  
4 more than five thousand dollars. Three hundred fifty dollars of the  
5 fine may not be suspended unless the court finds the offender to be  
6 indigent; or

7 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
8 of a person whose alcohol concentration was at least 0.15, or for  
9 whom by reason of the person's refusal to take a test offered  
10 pursuant to RCW 46.20.308 there is no test result indicating the  
11 person's alcohol concentration:

12 (i) By imprisonment for not less than forty-eight consecutive  
13 hours nor more than three hundred sixty-four days. In lieu of the  
14 mandatory minimum term of imprisonment required under this subsection  
15 (1)(b)(i), the court, in its discretion, may order not less than  
16 thirty days of electronic home monitoring or a one hundred twenty day  
17 period of 24/7 sobriety program monitoring. The court may consider  
18 the offender's pretrial 24/7 sobriety program testing as fulfilling a  
19 portion of posttrial sentencing. The offender shall pay the cost of  
20 electronic home monitoring. The county or municipality in which the  
21 penalty is being imposed shall determine the cost. The court may also  
22 require the offender's electronic home monitoring device to include  
23 an alcohol detection breathalyzer or other separate alcohol  
24 monitoring device, and the court may restrict the amount of alcohol  
25 the offender may consume during the time the offender is on  
26 electronic home monitoring; and

27 (ii) By a fine of not less than five hundred dollars nor more  
28 than five thousand dollars. Five hundred dollars of the fine may not  
29 be suspended unless the court finds the offender to be indigent.

30 (2) **One prior offense in seven years.** Except as provided in RCW  
31 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
32 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
33 within seven years shall be punished as follows:

34 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
35 of a person whose alcohol concentration was less than 0.15, or for  
36 whom for reasons other than the person's refusal to take a test  
37 offered pursuant to RCW 46.20.308 there is no test result indicating  
38 the person's alcohol concentration:

39 (i) By imprisonment for not less than thirty days nor more than  
40 three hundred sixty-four days and sixty days of electronic home

1 monitoring. Thirty days of imprisonment and sixty days of electronic  
2 home monitoring may not be suspended unless the court finds that the  
3 imposition of this mandatory minimum sentence would impose a  
4 substantial risk to the offender's physical or mental well-being. If  
5 the offender shows that the imposition of this mandatory minimum  
6 sentence would impose a substantial risk to the offender's physical  
7 or mental well-being, in lieu of the mandatory term of imprisonment  
8 and electronic home monitoring under this subsection (2)(a)(i), the  
9 court may order a minimum of either one hundred eighty days of  
10 electronic home monitoring or a one hundred twenty-day period of 24/7  
11 sobriety program monitoring pursuant to RCW 36.28A.300 through  
12 36.28A.390. Whenever the mandatory minimum sentence is suspended, the  
13 court shall state in writing the reason for granting the suspension  
14 and the facts upon which the suspension is based. The court may  
15 consider the offender's pretrial 24/7 sobriety program monitoring as  
16 fulfilling a portion of posttrial sentencing. The court shall order  
17 an expanded alcohol assessment and treatment, if deemed appropriate  
18 by the assessment. The offender shall pay for the cost of the  
19 electronic monitoring. The county or municipality where the penalty  
20 is being imposed shall determine the cost. The court may also require  
21 the offender's electronic home monitoring device include an alcohol  
22 detection breathalyzer or other separate alcohol monitoring device,  
23 and may restrict the amount of alcohol the offender may consume  
24 during the time the offender is on electronic home monitoring; and

25 (ii) By a fine of not less than five hundred dollars nor more  
26 than five thousand dollars. Five hundred dollars of the fine may not  
27 be suspended unless the court finds the offender to be indigent; or

28 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
29 of a person whose alcohol concentration was at least 0.15, or for  
30 whom by reason of the person's refusal to take a test offered  
31 pursuant to RCW 46.20.308 there is no test result indicating the  
32 person's alcohol concentration:

33 (i) By imprisonment for not less than forty-five days nor more  
34 than three hundred sixty-four days and ninety days of electronic home  
35 monitoring. Forty-five days of imprisonment and ninety days of  
36 electronic home monitoring may not be suspended unless the court  
37 finds that the imposition of this mandatory minimum sentence would  
38 impose a substantial risk to the offender's physical or mental well-  
39 being. If the offender shows that the imposition of this mandatory  
40 minimum sentence would impose a substantial risk to the offender's



1 physical or mental well-being, in lieu of the mandatory minimum term  
2 of imprisonment and electronic home monitoring under this subsection  
3 (2)(b)(i), the court may order a minimum of either six months of  
4 electronic home monitoring or a one hundred twenty-day period of 24/7  
5 sobriety program monitoring pursuant to RCW 36.28A.300 through  
6 36.28A.390. Whenever the mandatory minimum sentence is suspended, the  
7 court shall state in writing the reason for granting the suspension  
8 and the facts upon which the suspension is based. The court may  
9 consider the offender's pretrial 24/7 sobriety program monitoring as  
10 fulfilling a portion of posttrial sentencing. The court shall order  
11 an expanded alcohol assessment and treatment, if deemed appropriate  
12 by the assessment. The offender shall pay for the cost of the  
13 electronic monitoring. The county or municipality where the penalty  
14 is being imposed shall determine the cost. The court may also require  
15 the offender's electronic home monitoring device include an alcohol  
16 detection breathalyzer or other separate alcohol monitoring device,  
17 and may restrict the amount of alcohol the offender may consume  
18 during the time the offender is on electronic home monitoring; and

19 (ii) By a fine of not less than seven hundred fifty dollars nor  
20 more than five thousand dollars. Seven hundred fifty dollars of the  
21 fine may not be suspended unless the court finds the offender to be  
22 indigent.

23 (3) **Two prior offenses in seven years.** Except as provided in RCW  
24 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
25 violation of RCW 46.61.502 or 46.61.504 and who has two prior  
26 offenses within seven years shall be punished as follows:

27 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
28 of a person whose alcohol concentration was less than 0.15, or for  
29 whom for reasons other than the person's refusal to take a test  
30 offered pursuant to RCW 46.20.308 there is no test result indicating  
31 the person's alcohol concentration:

32 (i) By imprisonment for not less than ninety days nor more than  
33 three hundred sixty-four days, if available in that county or city, a  
34 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
35 36.28A.300 through 36.28A.390, and one hundred twenty days of  
36 electronic home monitoring. Ninety days of imprisonment and one  
37 hundred twenty days of electronic home monitoring may not be  
38 suspended unless the court finds that the imposition of this  
39 mandatory minimum sentence would impose a substantial risk to the  
40 offender's physical or mental well-being. If the offender shows that

1 the imposition of this mandatory minimum sentence would impose a  
2 substantial risk to the offender's physical or mental well-being, in  
3 lieu of the mandatory minimum term of ninety days of imprisonment and  
4 one hundred twenty days of electronic home monitoring, the court may  
5 order three hundred sixty days of electronic home monitoring or a  
6 three hundred sixty-day period of 24/7 sobriety monitoring pursuant  
7 to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
8 sentence is suspended, the court shall state in writing the reason  
9 for granting the suspension and the facts upon which the suspension  
10 is based. The court shall order an expanded alcohol assessment and  
11 treatment, if deemed appropriate by the assessment. The offender  
12 shall pay for the cost of the electronic monitoring. The county or  
13 municipality where the penalty is being imposed shall determine the  
14 cost. The court may also require the offender's electronic home  
15 monitoring device include an alcohol detection breathalyzer or other  
16 separate alcohol monitoring device, and may restrict the amount of  
17 alcohol the offender may consume during the time the offender is on  
18 electronic home monitoring; and

19 (ii) By a fine of not less than one thousand dollars nor more  
20 than five thousand dollars. One thousand dollars of the fine may not  
21 be suspended unless the court finds the offender to be indigent; or

22 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
23 of a person whose alcohol concentration was at least 0.15, or for  
24 whom by reason of the person's refusal to take a test offered  
25 pursuant to RCW 46.20.308 there is no test result indicating the  
26 person's alcohol concentration:

27 (i) By imprisonment for not less than one hundred twenty days nor  
28 more than three hundred sixty-four days, if available in that county  
29 or city, a six-month period of 24/7 sobriety program monitoring  
30 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty  
31 days of electronic home monitoring. One hundred twenty days of  
32 imprisonment and one hundred fifty days of electronic home monitoring  
33 may not be suspended unless the court finds that the imposition of  
34 this mandatory minimum sentence would impose a substantial risk to  
35 the offender's physical or mental well-being. If the offender shows  
36 that the imposition of this mandatory minimum sentence would impose a  
37 substantial risk to the offender's physical or mental well-being, in  
38 lieu of the mandatory minimum term of one hundred twenty days of  
39 imprisonment and one hundred fifty days of electronic home  
40 monitoring, the court may order three hundred sixty days of

1 electronic home monitoring or a three hundred sixty-day period of  
2 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through  
3 36.28A.390. Whenever the mandatory minimum sentence is suspended, the  
4 court shall state in writing the reason for granting the suspension  
5 and the facts upon which the suspension is based. The offender shall  
6 pay for the cost of the electronic monitoring. The court shall order  
7 an expanded alcohol assessment and treatment, if deemed appropriate  
8 by the assessment. The county or municipality where the penalty is  
9 being imposed shall determine the cost. The court may also require  
10 the offender's electronic home monitoring device include an alcohol  
11 detection breathalyzer or other separate alcohol monitoring device,  
12 and may restrict the amount of alcohol the offender may consume  
13 during the time the offender is on electronic home monitoring; and

14 (ii) By a fine of not less than one thousand five hundred dollars  
15 nor more than five thousand dollars. One thousand five hundred  
16 dollars of the fine may not be suspended unless the court finds the  
17 offender to be indigent.

18 (4) **Three or more prior offenses in ten years.** A person who is  
19 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be  
20 punished under chapter 9.94A RCW if:

21 (a) The person has three or more prior offenses within ten years;  
22 or

23 (b) The person has ever previously been convicted of:

24 (i) A violation of RCW 46.61.520 committed while under the  
25 influence of intoxicating liquor or any drug;

26 (ii) A violation of RCW 46.61.522 committed while under the  
27 influence of intoxicating liquor or any drug;

28 (iii) An out-of-state offense comparable to the offense specified  
29 in (b) (i) or (ii) of this subsection; or

30 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

31 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall  
32 require any person convicted of a violation of RCW 46.61.502 or  
33 46.61.504 or an equivalent local ordinance to comply with the rules  
34 and requirements of the department regarding the installation and use  
35 of a functioning ignition interlock device installed on all motor  
36 vehicles operated by the person.

37 (b) **Monitoring devices.** If the court orders that a person refrain  
38 from consuming any alcohol, the court may order the person to submit  
39 to alcohol monitoring through an alcohol detection breathalyzer  
40 device, transdermal sensor device, or other technology designed to

1 detect alcohol in a person's system. The person shall pay for the  
2 cost of the monitoring, unless the court specifies that the cost of  
3 monitoring will be paid with funds that are available from an  
4 alternative source identified by the court. The county or  
5 municipality where the penalty is being imposed shall determine the  
6 cost.

7 (c) **24/7 sobriety program monitoring.** In any county or city where  
8 a 24/7 sobriety program is available and verified by the Washington  
9 association of sheriffs and police chiefs, the court shall:

10 (i) Order the person to install and use a functioning ignition  
11 interlock or other device in lieu of such period of 24/7 sobriety  
12 program monitoring;

13 (ii) Order the person to a period of 24/7 sobriety program  
14 monitoring pursuant to subsections (1) through (3) of this section;  
15 or

16 (iii) Order the person to install and use a functioning ignition  
17 interlock or other device in addition to a period of 24/7 sobriety  
18 program monitoring pursuant to subsections (1) through (3) of this  
19 section.

20 (6) **Penalty for having a minor passenger in vehicle.** If a person  
21 who is convicted of a violation of RCW 46.61.502 or 46.61.504  
22 committed the offense while one or more passengers under the age of  
23 sixteen were in the vehicle, the court shall:

24 (a) Order the use of an ignition interlock or other device for an  
25 additional ((six)) twelve months for each passenger under the age of  
26 sixteen when the person is subject to the penalties under subsection  
27 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an  
28 ignition interlock device for an additional eighteen months for each  
29 passenger under the age of sixteen when the person is subject to the  
30 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this  
31 section;

32 (b) In any case in which the person has no prior offenses within  
33 seven years, and except as provided in RCW 46.61.502(6) or  
34 46.61.504(6), order an additional twenty-four hours of imprisonment  
35 to be served consecutively for each passenger under the age of  
36 sixteen, and a fine of not less than one thousand dollars and not  
37 more than five thousand dollars for each passenger under the age of  
38 sixteen. One thousand dollars of the fine for each passenger under  
39 the age of sixteen may not be suspended unless the court finds the  
40 offender to be indigent;

1 (c) In any case in which the person has one prior offense within  
2 seven years, and except as provided in RCW 46.61.502(6) or  
3 46.61.504(6), order an additional five days of imprisonment to be  
4 served consecutively for each passenger under the age of sixteen, and  
5 a fine of not less than two thousand dollars and not more than five  
6 thousand dollars for each passenger under the age of sixteen. One  
7 thousand dollars of the fine for each passenger under the age of  
8 sixteen may not be suspended unless the court finds the offender to  
9 be indigent;

10 (d) In any case in which the person has two prior offenses within  
11 seven years, and except as provided in RCW 46.61.502(6) or  
12 46.61.504(6), order an additional ten days of imprisonment to be  
13 served consecutively for each passenger under the age of sixteen, and  
14 a fine of not less than three thousand dollars and not more than ten  
15 thousand dollars for each passenger under the age of sixteen. One  
16 thousand dollars of the fine for each passenger under the age of  
17 sixteen may not be suspended unless the court finds the offender to  
18 be indigent.

19 (7) **Other items courts must consider while setting penalties.** In  
20 exercising its discretion in setting penalties within the limits  
21 allowed by this section, the court shall particularly consider the  
22 following:

23 (a) Whether the person's driving at the time of the offense was  
24 responsible for injury or damage to another or another's property;

25 (b) Whether at the time of the offense the person was driving or  
26 in physical control of a vehicle with one or more passengers;

27 (c) Whether the driver was driving in the opposite direction of  
28 the normal flow of traffic on a multiple lane highway, as defined by  
29 RCW 46.04.350, with a posted speed limit of forty-five miles per hour  
30 or greater; and

31 (d) Whether a child passenger under the age of sixteen was an  
32 occupant in the driver's vehicle.

33 (8) **Treatment and information school.** An offender punishable  
34 under this section is subject to the alcohol assessment and treatment  
35 provisions of RCW 46.61.5056.

36 (9) **Driver's license privileges of the defendant.** (a) The  
37 license, permit, or nonresident privilege of a person convicted of  
38 driving or being in physical control of a motor vehicle while under  
39 the influence of intoxicating liquor or drugs must:

1       ~~((a))~~ (i) **Penalty for alcohol concentration less than 0.15.** If  
2 the person's alcohol concentration was less than 0.15, or if for  
3 reasons other than the person's refusal to take a test offered under  
4 RCW 46.20.308 there is no test result indicating the person's alcohol  
5 concentration:

6       ~~((i))~~ (A) Where there has been no prior offense within seven  
7 years, be suspended or denied by the department for ninety days or  
8 until the person is evaluated by an alcoholism agency or probation  
9 department pursuant to RCW 46.20.311 and the person completes or is  
10 enrolled in a ninety-day period of 24/7 sobriety program monitoring.  
11 In no circumstances shall the license suspension be for fewer than  
12 two days;

13       ~~((ii))~~ (B) Where there has been one prior offense within seven  
14 years, be revoked or denied by the department for two years or until  
15 the person is evaluated by an alcoholism agency or probation  
16 department pursuant to RCW 46.20.311 and the person completes or is  
17 enrolled in a six-month period of 24/7 sobriety program monitoring.  
18 In no circumstances shall the license suspension be for less than one  
19 year; or

20       ~~((iii))~~ (C) Where there have been two or more prior offenses  
21 within seven years, be revoked or denied by the department for three  
22 years;

23       ~~((b))~~ (ii) **Penalty for alcohol concentration at least 0.15.** If  
24 the person's alcohol concentration was at least 0.15:

25       ~~((i))~~ (A) Where there has been no prior offense within seven  
26 years, be revoked or denied by the department for one year or until  
27 the person is evaluated by an alcoholism agency or probation  
28 department pursuant to RCW 46.20.311 and the person completes or is  
29 enrolled in a one hundred twenty day period of 24/7 sobriety program  
30 monitoring. In no circumstances shall the license revocation be for  
31 fewer than four days;

32       ~~((ii))~~ (B) Where there has been one prior offense within seven  
33 years, be revoked or denied by the department for nine hundred days;  
34 or

35       ~~((iii))~~ (C) Where there have been two or more prior offenses  
36 within seven years, be revoked or denied by the department for four  
37 years; or

38       ~~((e))~~ (iii) **Penalty for refusing to take test.** If by reason of  
39 the person's refusal to take a test offered under RCW 46.20.308,

1 there is no test result indicating the person's alcohol  
2 concentration:

3 ~~((i))~~ (A) Where there have been no prior offenses within seven  
4 years, be revoked or denied by the department for two years;

5 ~~((ii))~~ (B) Where there has been one prior offense within seven  
6 years, be revoked or denied by the department for three years; or

7 ~~((iii))~~ (C) Where there have been two or more previous offenses  
8 within seven years, be revoked or denied by the department for four  
9 years.

10 (b)(i) The department shall grant credit on a day-for-day basis  
11 for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~  
12 ~~served))~~ imposed under this subsection (9) for any portion of a  
13 suspension, revocation, or denial ~~((imposed))~~ already served under  
14 RCW 46.20.3101 arising out of the same incident.

15 (ii) If a person has already served a suspension, revocation, or  
16 denial under RCW 46.20.3101 for a period equal to or greater than the  
17 period imposed under this subsection (9), the department shall  
18 provide notice of full credit, shall provide for no further  
19 suspension or revocation under this subsection provided the person  
20 has completed the requirements under RCW 46.20.311 and paid the  
21 probationary license fee under RCW 46.20.355 by the date specified in  
22 the notice under RCW 46.20.245, and shall impose no additional  
23 reissue fees for this credit.

24 (c) Upon receipt of a notice from the court under RCW 36.28A.390  
25 that a participant has been removed from a 24/7 sobriety program, the  
26 department must resume any suspension, revocation, or denial that had  
27 been terminated early under this subsection due to participation in  
28 the program, granting credit on a day-for-day basis for any portion  
29 of a suspension, revocation, or denial already served under RCW  
30 46.20.3101 or this section arising out of the same incident.

31 (d) Upon its own motion or upon motion by a person, a court may  
32 find, on the record, that notice to the department under RCW  
33 46.20.270 has been delayed for three years or more as a result of a  
34 clerical or court error. If so, the court may order that the person's  
35 license, permit, or nonresident privilege shall not be revoked,  
36 suspended, or denied for that offense. The court shall send notice of  
37 the finding and order to the department and to the person. Upon  
38 receipt of the notice from the court, the department shall not  
39 revoke, suspend, or deny the license, permit, or nonresident  
40 privilege of the person for that offense.

1       (e) For purposes of this subsection (9), the department shall  
2 refer to the driver's record maintained under RCW 46.52.120 when  
3 determining the existence of prior offenses.

4       **(10) Probation of driving privilege.** After expiration of any  
5 period of suspension, revocation, or denial of the offender's  
6 license, permit, or privilege to drive required by this section, the  
7 department shall place the offender's driving privilege in  
8 probationary status pursuant to RCW 46.20.355.

9       **(11) Conditions of probation.** (a) In addition to any  
10 nonsuspendable and nondeferrable jail sentence required by this  
11 section, whenever the court imposes up to three hundred sixty-four  
12 days in jail, the court shall also suspend but shall not defer a  
13 period of confinement for a period not exceeding five years. The  
14 court shall impose conditions of probation that include: (i) Not  
15 driving a motor vehicle within this state without a valid license to  
16 drive; (ii) not driving a motor vehicle within this state without  
17 proof of liability insurance or other financial responsibility for  
18 the future pursuant to RCW 46.30.020; (iii) not driving or being in  
19 physical control of a motor vehicle within this state while having an  
20 alcohol concentration of 0.08 or more or a THC concentration of 5.00  
21 nanograms per milliliter of whole blood or higher, within two hours  
22 after driving; (iv) not refusing to submit to a test of his or her  
23 breath or blood to determine alcohol or drug concentration upon  
24 request of a law enforcement officer who has reasonable grounds to  
25 believe the person was driving or was in actual physical control of a  
26 motor vehicle within this state while under the influence of  
27 intoxicating liquor or drug; and (v) not driving a motor vehicle in  
28 this state without a functioning ignition interlock device as  
29 required by the department under RCW 46.20.720. The court may impose  
30 conditions of probation that include nonrepetition, installation of  
31 an ignition interlock device on the probationer's motor vehicle,  
32 alcohol or drug treatment, supervised probation, or other conditions  
33 that may be appropriate. The sentence may be imposed in whole or in  
34 part upon violation of a condition of probation during the suspension  
35 period.

36       (b) For each violation of mandatory conditions of probation under  
37 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall  
38 order the convicted person to be confined for thirty days, which  
39 shall not be suspended or deferred.



1 (c) For each incident involving a violation of a mandatory  
2 condition of probation imposed under this subsection, the license,  
3 permit, or privilege to drive of the person shall be suspended by the  
4 court for thirty days or, if such license, permit, or privilege to  
5 drive already is suspended, revoked, or denied at the time the  
6 finding of probation violation is made, the suspension, revocation,  
7 or denial then in effect shall be extended by thirty days. The court  
8 shall notify the department of any suspension, revocation, or denial  
9 or any extension of a suspension, revocation, or denial imposed under  
10 this subsection.

11 (12) **Waiver of electronic home monitoring.** A court may waive the  
12 electronic home monitoring requirements of this chapter when:

13 (a) The offender does not have a dwelling, telephone service, or  
14 any other necessity to operate an electronic home monitoring system.  
15 However, if a court determines that an alcohol monitoring device  
16 utilizing wireless reporting technology is reasonably available, the  
17 court may require the person to obtain such a device during the  
18 period of required electronic home monitoring;

19 (b) The offender does not reside in the state of Washington; or

20 (c) The court determines that there is reason to believe that the  
21 offender would violate the conditions of the electronic home  
22 monitoring penalty.

23 Whenever the mandatory minimum term of electronic home monitoring  
24 is waived, the court shall state in writing the reason for granting  
25 the waiver and the facts upon which the waiver is based, and shall  
26 impose an alternative sentence with similar punitive consequences.  
27 The alternative sentence may include, but is not limited to, use of  
28 an ignition interlock device, the 24/7 sobriety program monitoring,  
29 additional jail time, work crew, or work camp.

30 Whenever the combination of jail time and electronic home  
31 monitoring or alternative sentence would exceed three hundred sixty-  
32 four days, the offender shall serve the jail portion of the sentence  
33 first, and the electronic home monitoring or alternative portion of  
34 the sentence shall be reduced so that the combination does not exceed  
35 three hundred sixty-four days.

36 (13) **Extraordinary medical placement.** An offender serving a  
37 sentence under this section, whether or not a mandatory minimum term  
38 has expired, may be granted an extraordinary medical placement by the  
39 jail administrator subject to the standards and limitations set forth  
40 in RCW 9.94A.728(1) (c).

1 (14) **Definitions.** For purposes of this section and RCW 46.61.502  
2 and 46.61.504:

3 (a) A "prior offense" means any of the following:

4 (i) A conviction for a violation of RCW 46.61.502 or an  
5 equivalent local ordinance;

6 (ii) A conviction for a violation of RCW 46.61.504 or an  
7 equivalent local ordinance;

8 (iii) A conviction for a violation of RCW 46.25.110 or an  
9 equivalent local ordinance;

10 (iv) A conviction for a violation of RCW 79A.60.040(2) or an  
11 equivalent local ordinance;

12 (v) A conviction for a violation of RCW 79A.60.040(1) or an  
13 equivalent local ordinance committed in a reckless manner if the  
14 conviction is the result of a charge that was originally filed as a  
15 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

16 (vi) A conviction for a violation of RCW 47.68.220 or an  
17 equivalent local ordinance committed while under the influence of  
18 intoxicating liquor or any drug;

19 (vii) A conviction for a violation of RCW 47.68.220 or an  
20 equivalent local ordinance committed in a careless or reckless manner  
21 if the conviction is the result of a charge that was originally filed  
22 as a violation of RCW 47.68.220 or an equivalent local ordinance  
23 while under the influence of intoxicating liquor or any drug;

24 (viii) A conviction for a violation of RCW 46.09.470(2) or an  
25 equivalent local ordinance;

26 (ix) A conviction for a violation of RCW 46.10.490(2) or an  
27 equivalent local ordinance;

28 (x) A conviction for a violation of RCW 46.61.520 committed while  
29 under the influence of intoxicating liquor or any drug, or a  
30 conviction for a violation of RCW 46.61.520 committed in a reckless  
31 manner or with the disregard for the safety of others if the  
32 conviction is the result of a charge that was originally filed as a  
33 violation of RCW 46.61.520 committed while under the influence of  
34 intoxicating liquor or any drug;

35 (xi) A conviction for a violation of RCW 46.61.522 committed  
36 while under the influence of intoxicating liquor or any drug, or a  
37 conviction for a violation of RCW 46.61.522 committed in a reckless  
38 manner or with the disregard for the safety of others if the  
39 conviction is the result of a charge that was originally filed as a

1 violation of RCW 46.61.522 committed while under the influence of  
2 intoxicating liquor or any drug;

3 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,  
4 or 9A.36.050 or an equivalent local ordinance, if the conviction is  
5 the result of a charge that was originally filed as a violation of  
6 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of  
7 RCW 46.61.520 or 46.61.522;

8 (xiii) An out-of-state conviction for a violation that would have  
9 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this  
10 subsection if committed in this state;

11 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a  
12 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
13 equivalent local ordinance;

14 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
15 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
16 ordinance, if the charge under which the deferred prosecution was  
17 granted was originally filed as a violation of RCW 46.61.502 or  
18 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
19 46.61.522;

20 (xvi) A deferred prosecution granted in another state for a  
21 violation of driving or having physical control of a vehicle while  
22 under the influence of intoxicating liquor or any drug if the out-of-  
23 state deferred prosecution is equivalent to the deferred prosecution  
24 under chapter 10.05 RCW, including a requirement that the defendant  
25 participate in a chemical dependency treatment program; or

26 (xvii) A deferred sentence imposed in a prosecution for a  
27 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
28 equivalent local ordinance, if the charge under which the deferred  
29 sentence was imposed was originally filed as a violation of RCW  
30 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
31 violation of RCW 46.61.520 or 46.61.522;

32 If a deferred prosecution is revoked based on a subsequent  
33 conviction for an offense listed in this subsection (14)(a), the  
34 subsequent conviction shall not be treated as a prior offense of the  
35 revoked deferred prosecution for the purposes of sentencing;

36 (b) "Treatment" means substance use disorder treatment licensed  
37 or certified by the department of health;

38 (c) "Within seven years" means that the arrest for a prior  
39 offense occurred within seven years before or after the arrest for  
40 the current offense; and

1 (d) "Within ten years" means that the arrest for a prior offense  
2 occurred within ten years before or after the arrest for the current  
3 offense.

4 (15) All fines imposed by this section apply to adult offenders  
5 only.

6 NEW SECTION. **Sec. 18.** RCW 43.43.3951 (Ignition interlock  
7 devices—Limited exemption for companies not using devices employing  
8 fuel cell technology) and 2010 c 268 s 3 are each repealed.

9 NEW SECTION. **Sec. 19.** Sections 2, 3, 6 through 11, 13, and 17  
10 of this act take effect January 1, 2020.

11 NEW SECTION. **Sec. 20.** Section 16 of this act expires January 1,  
12 2020.

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