

1 **HB 1940 - H AMD 164 ADOPTED 3-13-97**

2 By Representative Sterk

3 On page 1, beginning on line 8, strike all of section 1 and
4 insert:

5 **Sec. 1.** RCW 10.05.090 and 1994 c 275 18 are each amended
6 to read as follows:

7 If a petitioner, who has been accepted for a deferred
8 prosecution, fails or neglects to carry out and fulfill any term or
9 condition of the petitioner's treatment plan or any term or
10 condition imposed in connection with the installation of an
11 interlock or other device under RCW 46.20.720, the facility,
12 center, institution, or agency administering the treatment or the
13 entity administering the use of the device, shall immediately
14 report such breach to the court, the prosecutor, and the petitioner
15 or petitioner's attorney of record, together with its
16 recommendation. The court upon receiving such a report shall hold
17 a hearing to determine whether the petitioner should be removed
18 from the deferred prosecution program. At the hearing, evidence
19 shall be taken of the petitioner's alleged failure to comply with
20 the treatment plan or device installation and the petitioner shall
21 have the right to present evidence on his or her own behalf. The
22 court shall either order that the petitioner continue on the
23 treatment plan or be removed from deferred prosecution. If removed
24 from deferred prosecution, the court shall enter judgment pursuant
25 to RCW 10.05.020 and, if the charge for which the deferred
26 prosecution was granted was a misdemeanor or gross misdemeanor
27 under Title 46 RCW, shall notify the department of licensing of the
28 removal and entry of judgment.

29 **Sec. 2.** RCW 10.05.140 and 1991 c 247 1 are each amended to
30 read as follows:

31 As a condition of granting a deferred prosecution petition,
32 the court shall order that the petitioner shall not operate a motor
33 vehicle upon the public highways without a valid operator's license
34 and proof of liability insurance. The amount of liability
35 insurance shall be established by the court at not less than that

1 established by RCW 46.29.490. As a condition of granting a
2 deferred prosecution petition, the court may also order the
3 installation of an interlock or other device under RCW 46.20.720.
4 As a condition of granting a deferred prosecution petition, the
5 court may order the petitioner to make restitution and to pay costs
6 as defined in RCW 10.01.160. The court may terminate the deferred
7 prosecution program upon violation of this section.-

8 Renumber the remaining sections, correct any internal references
9 accordingly and correct the title.

EFFECT: Explicitly provides for installation of an ignition interlock as part of granting a deferred prosecution and provides that a failure to comply with the interlock installation's requirements may lead to removal from the deferral. Removes explicit language regarding installation of an ignition interlock as part of a modification of a treatment plan following a failure to meet the terms of the plan.