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SENATE BILL 6236

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State of Washington

64th Legislature

2016 Regular Session

By Senator Padden

Read first time 01/13/16. Referred to Committee on Law & Justice.

1 AN ACT Relating to the 24/7 sobriety program; amending RCW  
2 10.21.055, 46.61.5055, 46.20.3101, and 36.28A.390; and repealing RCW  
3 36.28A.310.

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

5 **Sec. 1.** RCW 10.21.055 and 2015 2nd sp.s. c 3 s 2 are each  
6 amended to read as follows:

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

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

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

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

6 (iv) Have an ignition interlock device on all motor vehicles  
7 operated by the person and that such person agrees not to operate any  
8 motor vehicle without an ignition interlock device as required by the  
9 court. Under this subsection (1)(a)(iv), the person must file a sworn  
10 statement with the court upon release at arraignment that states the  
11 person will not operate any motor vehicle without an ignition  
12 interlock device while the ignition interlock restriction is imposed  
13 by the court. Such person must also submit to 24/7 sobriety program  
14 monitoring pursuant to (a)(ii) of this subsection, if available, or  
15 alcohol monitoring, at the expense of the person, as provided in RCW  
16 46.61.5055(5) (b) and (c).

17 (b) The court shall immediately notify the department of  
18 licensing when an ignition interlock restriction is imposed: (i) As a  
19 condition of release pursuant to (a) of this subsection; or (ii) in  
20 instances where a person is charged with, or convicted of, a  
21 violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, and  
22 the offense involves alcohol. If the court imposes an ignition  
23 interlock restriction, the department of licensing shall attach or  
24 imprint a notation on the driving record of any person restricted  
25 under this section stating that the person may operate only a motor  
26 vehicle equipped with a functioning ignition interlock device.

27 (2)(a) Upon acquittal or dismissal of all pending or current  
28 charges relating to a violation of RCW 46.61.502, 46.61.504,  
29 46.61.520, or 46.61.522, or equivalent local ordinance, the court  
30 shall authorize removal of the ignition interlock device and lift any  
31 requirement to comply with electronic alcohol/drug monitoring imposed  
32 under subsection (1) of this section. Nothing in this section limits  
33 the authority of the court or department under RCW 46.20.720.

34 (b) If the court authorizes removal of an ignition interlock  
35 device imposed under (~~((a) of this~~) subsection(~~(+,+)~~) (1) of this  
36 section, the court shall immediately notify the department of  
37 licensing regarding the lifting of the ignition interlock restriction  
38 and the department of licensing shall release any attachment,  
39 imprint, or notation on such person's driving record relating to the  
40 ignition interlock requirement imposed under this section.

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

6 **Sec. 2.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each  
7 amended to read as follows:

8 (1) **No prior offenses in seven years.** Except as provided in RCW  
9 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
10 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
11 within seven years shall be punished as follows:

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

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

37 (ii) By a fine of not less than three hundred fifty dollars nor  
38 more than five thousand dollars. Three hundred fifty dollars of the

1 fine may not be suspended unless the court finds the offender to be  
2 indigent; or

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

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

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

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

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

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

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

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

31 (i) By imprisonment for not less than forty-five days nor more  
32 than three hundred sixty-four days and ninety days of electronic home  
33 monitoring. In lieu of the mandatory minimum term of ninety days  
34 electronic home monitoring, the court may order at least an  
35 additional six days in jail or, if available in that county or city,  
36 a six-month period of 24/7 sobriety program monitoring pursuant to  
37 RCW 36.28A.300 through 36.28A.390, and the court shall order an  
38 expanded alcohol assessment and treatment, if deemed appropriate by  
39 the assessment. The offender shall pay for the cost of the electronic  
40 monitoring. The county or municipality where the penalty is being

1 imposed shall determine the cost. The court may also require the  
2 offender's electronic home monitoring device include an alcohol  
3 detection breathalyzer or other separate alcohol monitoring device,  
4 and may restrict the amount of alcohol the offender may consume  
5 during the time the offender is on electronic home monitoring. Forty-  
6 five days of imprisonment and ninety days of electronic home  
7 monitoring may not be suspended unless the court finds that the  
8 imposition of this mandatory minimum sentence would impose a  
9 substantial risk to the offender's physical or mental well-being.  
10 Whenever the mandatory minimum sentence is suspended, the court shall  
11 state in writing the reason for granting the suspension and the facts  
12 upon which the suspension is based; and

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

17 (3) **Two or three prior offenses in seven years.** Except as  
18 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is  
19 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has  
20 two or three prior offenses within seven years shall be punished as  
21 follows:

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

27 (i) By imprisonment for not less than ninety days nor more than  
28 three hundred sixty-four days, if available in that county or city, a  
29 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
30 36.28A.300 through 36.28A.390, and one hundred twenty days of  
31 electronic home monitoring. In lieu of the mandatory minimum term of  
32 one hundred twenty days of electronic home monitoring, the court may  
33 order at least an additional eight days in jail. The court shall  
34 order an expanded alcohol assessment and treatment, if deemed  
35 appropriate by the assessment. The offender shall pay for the cost of  
36 the electronic monitoring. The county or municipality where the  
37 penalty is being imposed shall determine the cost. The court may also  
38 require the offender's electronic home monitoring device include an  
39 alcohol detection breathalyzer or other separate alcohol monitoring  
40 device, and may restrict the amount of alcohol the offender may

1 consume during the time the offender is on electronic home  
2 monitoring. Ninety days of imprisonment and one hundred twenty days  
3 of electronic home monitoring may not be suspended unless the court  
4 finds that the imposition of this mandatory minimum sentence would  
5 impose a substantial risk to the offender's physical or mental well-  
6 being. 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; and

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

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

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

39 (ii) By a fine of not less than one thousand five hundred dollars  
40 nor more than five thousand dollars. One thousand five hundred

1 dollars of the fine may not be suspended unless the court finds the  
2 offender to be indigent.

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

6 (a) The person has four or more prior offenses within ten years;  
7 or

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

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

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

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

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

16 (5) **Monitoring.**

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

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

33 (c) (~~Ignition interlock device substituted for~~) **24/7 sobriety**  
34 **program monitoring.** In any county or city where a 24/7 sobriety  
35 program is available and verified by the Washington association of  
36 sheriffs and police chiefs, the court (~~shall~~) may:

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



1       ~~(ii))~~ Order the person to a period of 24/7 sobriety program  
2 monitoring in lieu of an ignition interlock device pursuant to (a) of  
3 this subsection~~((s (1) through (3) of this section))~~; or

4       ~~((iii))~~ (ii) Order the person to ~~((install and use a~~  
5 ~~functioning ignition interlock or other device in addition to))~~ a  
6 period of 24/7 sobriety program monitoring in addition to  
7 installation of an ignition interlock device pursuant to (a) of this  
8 subsection~~((s (1) through (3) of this section))~~.

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

13       (a) Order the use of an ignition interlock or other device for an  
14 additional six months;

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

21       (c) In any case in which the person has one prior offense within  
22 seven years, and except as provided in RCW 46.61.502(6) or  
23 46.61.504(6), order an additional five days of imprisonment and a  
24 fine of not less than two thousand dollars and not more than five  
25 thousand dollars. One thousand dollars of the fine may not be  
26 suspended unless the court finds the offender to be indigent;

27       (d) In any case in which the person has two or three prior  
28 offenses within seven years, and except as provided in RCW  
29 46.61.502(6) or 46.61.504(6), order an additional ten days of  
30 imprisonment and a fine of not less than three thousand dollars and  
31 not more than ten thousand dollars. One thousand dollars of the fine  
32 may not be suspended unless the court finds the offender to be  
33 indigent.

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

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

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

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

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

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

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

16 (a) **Penalty for alcohol concentration less than 0.15.** If the  
17 person's alcohol concentration was less than 0.15, or if for reasons  
18 other than the person's refusal to take a test offered under RCW  
19 46.20.308 there is no test result indicating the person's alcohol  
20 concentration:

21 (i) Where there has been no prior offense within seven years, be  
22 suspended or denied by the department for ninety days unless the  
23 person completes or is enrolled in a ninety day period of 24/7  
24 sobriety program monitoring;

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

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

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

31 (i) Where there has been no prior offense within seven years, be  
32 revoked or denied by the department for one year unless the person  
33 completes or is enrolled in a one hundred twenty day period of 24/7  
34 sobriety program monitoring;

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

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

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

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

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

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

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

14 Upon its own motion or upon motion by a person, a court may find,  
15 on the record, that notice to the department under RCW 46.20.270 has  
16 been delayed for three years or more as a result of a clerical or  
17 court error. If so, the court may order that the person's license,  
18 permit, or nonresident privilege shall not be revoked, suspended, or  
19 denied for that offense. The court shall send notice of the finding  
20 and order to the department and to the person. Upon receipt of the  
21 notice from the court, the department shall not revoke, suspend, or  
22 deny the license, permit, or nonresident privilege of the person for  
23 that offense.

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

27 (10) **Probation of driving privilege.** After expiration of any  
28 period of suspension, revocation, or denial of the offender's  
29 license, permit, or privilege to drive required by this section, the  
30 department shall place the offender's driving privilege in  
31 probationary status pursuant to RCW 46.20.355.

32 (11) **Conditions of probation.** (a) In addition to any  
33 nonsuspendable and nondeferrable jail sentence required by this  
34 section, whenever the court imposes up to three hundred sixty-four  
35 days in jail, the court shall also suspend but shall not defer a  
36 period of confinement for a period not exceeding five years. The  
37 court shall impose conditions of probation that include: (i) Not  
38 driving a motor vehicle within this state without a valid license to  
39 drive; (ii) not driving a motor vehicle within this state without  
40 proof of liability insurance or other financial responsibility for

1 the future pursuant to RCW 46.30.020; (iii) not driving or being in  
2 physical control of a motor vehicle within this state while having an  
3 alcohol concentration of 0.08 or more or a THC concentration of 5.00  
4 nanograms per milliliter of whole blood or higher, within two hours  
5 after driving; (iv) not refusing to submit to a test of his or her  
6 breath or blood to determine alcohol or drug concentration upon  
7 request of a law enforcement officer who has reasonable grounds to  
8 believe the person was driving or was in actual physical control of a  
9 motor vehicle within this state while under the influence of  
10 intoxicating liquor or drug; and (v) not driving a motor vehicle in  
11 this state without a functioning ignition interlock device as  
12 required by the department under RCW 46.20.720(3). The court may  
13 impose conditions of probation that include nonrepetition,  
14 installation of an ignition interlock device on the probationer's  
15 motor vehicle, alcohol or drug treatment, supervised probation, or  
16 other conditions that may be appropriate. The sentence may be imposed  
17 in whole or in part upon violation of a condition of probation during  
18 the suspension period.

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

23 (c) For each incident involving a violation of a mandatory  
24 condition of probation imposed under this subsection, the license,  
25 permit, or privilege to drive of the person shall be suspended by the  
26 court for thirty days or, if such license, permit, or privilege to  
27 drive already is suspended, revoked, or denied at the time the  
28 finding of probation violation is made, the suspension, revocation,  
29 or denial then in effect shall be extended by thirty days. The court  
30 shall notify the department of any suspension, revocation, or denial  
31 or any extension of a suspension, revocation, or denial imposed under  
32 this subsection.

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

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

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

2 (c) The court determines that there is reason to believe that the  
3 offender would violate the conditions of the electronic home  
4 monitoring penalty.

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

12 Whenever the combination of jail time and electronic home  
13 monitoring or alternative sentence would exceed three hundred sixty-  
14 four days, the offender shall serve the jail portion of the sentence  
15 first, and the electronic home monitoring or alternative portion of  
16 the sentence shall be reduced so that the combination does not exceed  
17 three hundred sixty-four days.

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

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

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

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

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

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

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

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

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

1 (vii) A conviction for a violation of RCW 47.68.220 or an  
2 equivalent local ordinance committed in a careless or reckless manner  
3 if the conviction is the result of a charge that was originally filed  
4 as a violation of RCW 47.68.220 or an equivalent local ordinance  
5 while under the influence of intoxicating liquor or any drug;

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

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

10 (x) A conviction for a violation of RCW 46.61.520 committed while  
11 under the influence of intoxicating liquor or any drug, or a  
12 conviction for a violation of RCW 46.61.520 committed in a reckless  
13 manner or with the disregard for the safety of others if the  
14 conviction is the result of a charge that was originally filed as a  
15 violation of RCW 46.61.520 committed while under the influence of  
16 intoxicating liquor or any drug;

17 (xi) A conviction for a violation of RCW 46.61.522 committed  
18 while under the influence of intoxicating liquor or any drug, or a  
19 conviction for a violation of RCW 46.61.522 committed in a reckless  
20 manner or with the disregard for the safety of others if the  
21 conviction is the result of a charge that was originally filed as a  
22 violation of RCW 46.61.522 committed while under the influence of  
23 intoxicating liquor or any drug;

24 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,  
25 or 9A.36.050 or an equivalent local ordinance, if the conviction is  
26 the result of a charge that was originally filed as a violation of  
27 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of  
28 RCW 46.61.520 or 46.61.522;

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

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

35 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
36 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
37 ordinance, if the charge under which the deferred prosecution was  
38 granted was originally filed as a violation of RCW 46.61.502 or  
39 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
40 46.61.522;

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

7 (xvii) A deferred sentence imposed in a prosecution for a  
8 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
9 equivalent local ordinance, if the charge under which the deferred  
10 sentence was imposed was originally filed as a violation of RCW  
11 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
12 violation of RCW 46.61.520 or 46.61.522;

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

17 (b) "Treatment" means alcohol or drug treatment approved by the  
18 department of social and health services;

19 (c) "Within seven years" means that the arrest for a prior  
20 offense occurred within seven years before or after the arrest for  
21 the current offense; and

22 (d) "Within ten years" means that the arrest for a prior offense  
23 occurred within ten years before or after the arrest for the current  
24 offense.

25 (15) All fines imposed by this section apply to adult offenders  
26 only.

27 **Sec. 3.** RCW 46.20.3101 and 2013 c 3 s 32 are each amended to  
28 read as follows:

29 Pursuant to RCW 46.20.308, the department shall suspend, revoke,  
30 or deny the arrested person's license, permit, or privilege to drive  
31 as follows:

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

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

37 (b) For a second or subsequent refusal within seven years, or for  
38 a first refusal where there has been one or more previous incidents  
39 within seven years that have resulted in administrative action under

1 this section, revocation or denial for two years or until the person  
2 reaches age twenty-one, whichever is longer.

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

7 (a) For a first incident within seven years, where there has not  
8 been a previous incident within seven years that resulted in  
9 administrative action under this section, suspension for ninety days,  
10 unless the person successfully completes or is enrolled in a pretrial  
11 24/7 sobriety program;

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

14 (3) In the case of an incident where a person under age twenty-  
15 one has submitted to or been administered a test or tests indicating  
16 that the alcohol concentration of the person's breath or blood was  
17 0.02 or more, or that the THC concentration of the person's blood was  
18 above 0.00:

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

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

24 (4) The department shall grant credit on a day-for-day basis for  
25 any portion of a suspension, revocation, or denial already served  
26 under this section for a suspension, revocation, or denial imposed  
27 under RCW 46.61.5055 arising out of the same incident.

28 **Sec. 4.** RCW 36.28A.390 and 2015 2nd sp.s. c 3 s 19 are each  
29 amended to read as follows:

30 (1) A general authority Washington peace officer, as defined in  
31 RCW 10.93.020, who has probable cause to believe that a participant  
32 has violated the terms of participation in the 24/7 sobriety program  
33 may immediately take the participant into custody and cause him or  
34 her to be held until an appearance before a judge on the next  
35 judicial day.

36 (2) A participant who violates the terms of participation in the  
37 24/7 sobriety program or does not pay the required fees or associated  
38 costs pretrial or posttrial shall, at a minimum:

39 (a) Receive a written warning notice for a first violation;



1           (b) ~~Serve ((the lesser of two days imprisonment or if posttrial,~~  
2 ~~the entire remaining sentence imposed by the court))~~ a minimum of one  
3 day imprisonment for a second violation;

4           (c) ~~Serve ((the lesser of five days imprisonment or if posttrial,~~  
5 ~~the entire remaining sentence imposed by the court))~~ a minimum of  
6 three days imprisonment for a third violation;

7           (d) ~~Serve ((the lesser of ten days imprisonment or if posttrial,~~  
8 ~~the entire remaining sentence imposed by the court))~~ a minimum of  
9 five days imprisonment for a fourth violation; and

10          (e) Serve a minimum of seven days imprisonment for a fifth or  
11 subsequent violation (~~pretrial, the participant shall abide by the~~  
12 ~~order of the court. For posttrial participants, the participant shall~~  
13 ~~serve the entire remaining sentence imposed by the court)).~~

14          (3) The court may remove a participant from the 24/7 sobriety  
15 program at any time for noncompliance with the terms of  
16 participation.

17          NEW SECTION.     **Sec. 5.**     RCW 36.28A.310 (24/7 sobriety program  
18 pilot project) and 2013 2nd sp.s. c 35 s 24 are each repealed.

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