

---

**SUBSTITUTE HOUSE BILL 2715**

---

**State of Washington                      65th Legislature                      2018 Regular Session**

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

READ FIRST TIME 02/02/18.

1            AN ACT Relating to impaired driving; amending RCW 9.94A.729,  
2 9.94A.533, 10.21.055, 18.360.030, 38.52.430, 43.43.395, and  
3 46.20.750; reenacting and amending RCW 46.61.5055; adding a new  
4 section to chapter 46.20 RCW; prescribing penalties; and providing an  
5 effective date.

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

7            **Sec. 1.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to  
8 read as follows:

9            (1)(a) The term of the sentence of an offender committed to a  
10 correctional facility operated by the department may be reduced by  
11 earned release time in accordance with procedures that shall be  
12 developed and adopted by the correctional agency having jurisdiction  
13 in which the offender is confined. The earned release time shall be  
14 for good behavior and good performance, as determined by the  
15 correctional agency having jurisdiction. The correctional agency  
16 shall not credit the offender with earned release credits in advance  
17 of the offender actually earning the credits.

18            (b) Any program established pursuant to this section shall allow  
19 an offender to earn early release credits for presentence  
20 incarceration. If an offender is transferred from a county jail to  
21 the department, the administrator of a county jail facility shall

1 certify to the department the amount of time spent in custody at the  
2 facility and the number of days of early release credits lost or not  
3 earned. The department may approve a jail certification from a  
4 correctional agency that calculates early release time based on the  
5 actual amount of confinement time served by the offender before  
6 sentencing when an erroneous calculation of confinement time served  
7 by the offender before sentencing appears on the judgment and  
8 sentence. The department must adjust an offender's rate of early  
9 release listed on the jail certification to be consistent with the  
10 rate applicable to offenders in the department's facilities. However,  
11 the department is not authorized to adjust the number of presentence  
12 early release days that the jail has certified as lost or not earned.

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

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

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

25 (a) In the case of an offender sentenced pursuant to RCW  
26 10.95.030(3) or 10.95.035, the offender may not receive any earned  
27 early release time during the minimum term of confinement imposed by  
28 the court; for any remaining portion of the sentence served by the  
29 offender, the aggregate earned release time may not exceed ten  
30 percent of the sentence.

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

35 (c) 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, 2003, the aggregate earned release time may not exceed  
38 ten percent of the sentence.

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

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

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

4 (A) A sex offense;

5 (B) A violent offense;

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

7 (D) A felony that is domestic violence as defined in RCW  
8 10.99.020;

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

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

13 (G) A violation of, or an attempt, solicitation, or conspiracy to  
14 violate, RCW 69.50.406 (delivery of a controlled substance to a  
15 minor);

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

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

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

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

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

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

36 (b) The department shall, as a part of its program for release to  
37 the community in lieu of earned release, require the offender to  
38 propose a release plan that includes an approved residence and living  
39 arrangement. All offenders with community custody terms eligible for  
40 release to community custody in lieu of earned release shall provide

1 an approved residence and living arrangement prior to release to the  
2 community;

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

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

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

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

23 A voucher must be provided in conjunction with additional  
24 transition support programming or services that enable an offender to  
25 participate in services including, but not limited to, substance  
26 abuse treatment, mental health treatment, sex offender treatment,  
27 educational programming, or employment programming;

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

33 (f) For each offender who is the recipient of a rental voucher,  
34 the department shall gather data as recommended by the Washington  
35 state institute for public policy in order to best demonstrate  
36 whether rental vouchers are effective in reducing recidivism.

37 (6) An offender serving a term of confinement imposed under RCW  
38 9.94A.670(5)(a) is not eligible for earned release credits under this  
39 section.

1       **Sec. 2.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to  
2 read as follows:

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

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

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

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

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

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

37       (d) If the offender is being sentenced for any firearm  
38 enhancements under (a), (b), and/or (c) of this subsection and the  
39 offender has previously been sentenced for any deadly weapon  
40 enhancements after July 23, 1995, under (a), (b), and/or (c) of this

1 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
2 both, all firearm enhancements under this subsection shall be twice  
3 the amount of the enhancement listed;

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

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

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

14 (f) The firearm enhancements in this section shall apply to all  
15 felony crimes except the following: Possession of a machine gun,  
16 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
17 unlawful possession of a firearm in the first and second degree, and  
18 use of a machine gun in a felony;

19 (g) If the standard sentence range under this section exceeds the  
20 statutory maximum sentence for the offense, the statutory maximum  
21 sentence shall be the presumptive sentence unless the offender is a  
22 persistent offender. If the addition of a firearm enhancement  
23 increases the sentence so that it would exceed the statutory maximum  
24 for the offense, the portion of the sentence representing the  
25 enhancement may not be reduced.

26 (4) The following additional times shall be added to the standard  
27 sentence range for felony crimes committed after July 23, 1995, if  
28 the offender or an accomplice was armed with a deadly weapon other  
29 than a firearm as defined in RCW 9.41.010 and the offender is being  
30 sentenced for one of the crimes listed in this subsection as eligible  
31 for any deadly weapon enhancements based on the classification of the  
32 completed felony crime. If the offender is being sentenced for more  
33 than one offense, the deadly weapon enhancement or enhancements must  
34 be added to the total period of confinement for all offenses,  
35 regardless of which underlying offense is subject to a deadly weapon  
36 enhancement. If the offender or an accomplice was armed with a deadly  
37 weapon other than a firearm as defined in RCW 9.41.010 and the  
38 offender is being sentenced for an anticipatory offense under chapter  
39 9A.28 RCW to commit one of the crimes listed in this subsection as  
40 eligible for any deadly weapon enhancements, the following additional

1 times shall be added to the standard sentence range determined under  
2 subsection (2) of this section based on the felony crime of  
3 conviction as classified under RCW 9A.28.020:

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

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

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

13 (d) If the offender is being sentenced under (a), (b), and/or (c)  
14 of this subsection for any deadly weapon enhancements and the  
15 offender has previously been sentenced for any deadly weapon  
16 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
17 subsection or subsection (3)(a), (b), and/or (c) of this section, or  
18 both, all deadly weapon enhancements under this subsection shall be  
19 twice the amount of the enhancement listed;

20 (e) Notwithstanding any other provision of law, all deadly weapon  
21 enhancements under this section are mandatory, shall be served in  
22 total confinement, and shall run consecutively to all other  
23 sentencing provisions, including other firearm or deadly weapon  
24 enhancements, for all offenses sentenced under this chapter. However,  
25 whether or not a mandatory minimum term has expired, an offender  
26 serving a sentence under this subsection may be:

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

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

30 (f) The deadly weapon enhancements in this section shall apply to  
31 all felony crimes except the following: Possession of a machine gun,  
32 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
33 unlawful possession of a firearm in the first and second degree, and  
34 use of a machine gun in a felony;

35 (g) If the standard sentence range under this section exceeds the  
36 statutory maximum sentence for the offense, the statutory maximum  
37 sentence shall be the presumptive sentence unless the offender is a  
38 persistent offender. If the addition of a deadly weapon enhancement  
39 increases the sentence so that it would exceed the statutory maximum

1 for the offense, the portion of the sentence representing the  
2 enhancement may not be reduced.

3 (5) The following additional times shall be added to the standard  
4 sentence range if the offender or an accomplice committed the offense  
5 while in a county jail or state correctional facility and the  
6 offender is being sentenced for one of the crimes listed in this  
7 subsection. If the offender or an accomplice committed one of the  
8 crimes listed in this subsection while in a county jail or state  
9 correctional facility, and the offender is being sentenced for an  
10 anticipatory offense under chapter 9A.28 RCW to commit one of the  
11 crimes listed in this subsection, the following additional times  
12 shall be added to the standard sentence range determined under  
13 subsection (2) of this section:

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

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

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

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

22 (6) An additional twenty-four months shall be added to the  
23 standard sentence range for any ranked offense involving a violation  
24 of chapter 69.50 RCW if the offense was also a violation of RCW  
25 69.50.435 or 9.94A.827. All enhancements under this subsection shall  
26 run consecutively to all other sentencing provisions, for all  
27 offenses sentenced under this chapter.

28 (7) An additional two years shall be added to the standard  
29 sentence range for vehicular homicide committed while under the  
30 influence of intoxicating liquor or any drug as defined by RCW  
31 46.61.502 for each prior offense as defined in RCW 46.61.5055.

32 Notwithstanding any other provision of law, all impaired driving  
33 enhancements under this subsection are mandatory, shall be served in  
34 total confinement, and shall run consecutively to all other  
35 sentencing provisions, including other impaired driving enhancements,  
36 for all offenses sentenced under this chapter.

37 An offender serving a sentence under this subsection may be  
38 granted an extraordinary medical placement when authorized under RCW  
39 9.94A.728(1)(c).



1 (8)(a) The following additional times shall be added to the  
2 standard sentence range for felony crimes committed on or after July  
3 1, 2006, if the offense was committed with sexual motivation, as that  
4 term is defined in RCW 9.94A.030. If the offender is being sentenced  
5 for more than one offense, the sexual motivation enhancement must be  
6 added to the total period of total confinement for all offenses,  
7 regardless of which underlying offense is subject to a sexual  
8 motivation enhancement. If the offender committed the offense with  
9 sexual motivation and the offender is being sentenced for an  
10 anticipatory offense under chapter 9A.28 RCW, the following  
11 additional times shall be added to the standard sentence range  
12 determined under subsection (2) of this section based on the felony  
13 crime of conviction as classified under RCW 9A.28.020:

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

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

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

22 (iv) If the offender is being sentenced for any sexual motivation  
23 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
24 the offender has previously been sentenced for any sexual motivation  
25 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
26 (iii) of this subsection, all sexual motivation enhancements under  
27 this subsection shall be twice the amount of the enhancement listed;

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

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

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

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

1 (d) If the standard sentence range under this subsection exceeds  
2 the statutory maximum sentence for the offense, the statutory maximum  
3 sentence shall be the presumptive sentence unless the offender is a  
4 persistent offender. If the addition of a sexual motivation  
5 enhancement increases the sentence so that it would exceed the  
6 statutory maximum for the offense, the portion of the sentence  
7 representing the enhancement may not be reduced;

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

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

14 (9) An additional one-year enhancement shall be added to the  
15 standard sentence range for the felony crimes of RCW 9A.44.073,  
16 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
17 or after July 22, 2007, if the offender engaged, agreed, or offered  
18 to engage the victim in the sexual conduct in return for a fee. If  
19 the offender is being sentenced for more than one offense, the  
20 one-year enhancement must be added to the total period of total  
21 confinement for all offenses, regardless of which underlying offense  
22 is subject to the enhancement. If the offender is being sentenced for  
23 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
24 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
25 offender attempted, solicited another, or conspired to engage, agree,  
26 or offer to engage the victim in the sexual conduct in return for a  
27 fee, an additional one-year enhancement shall be added to the  
28 standard sentence range determined under subsection (2) of this  
29 section. For purposes of this subsection, "sexual conduct" means  
30 sexual intercourse or sexual contact, both as defined in chapter  
31 9A.44 RCW.

32 (10)(a) For a person age eighteen or older convicted of any  
33 criminal street gang-related felony offense for which the person  
34 compensated, threatened, or solicited a minor in order to involve the  
35 minor in the commission of the felony offense, the standard sentence  
36 range is determined by locating the sentencing grid sentence range  
37 defined by the appropriate offender score and the seriousness level  
38 of the completed crime, and multiplying the range by one hundred  
39 twenty-five percent. If the standard sentence range under this  
40 subsection exceeds the statutory maximum sentence for the offense,

1 the statutory maximum sentence is the presumptive sentence unless the  
2 offender is a persistent offender.

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

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

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

15 (12) An additional twelve months shall be added to the standard  
16 sentence range for an offense that is also a violation of RCW  
17 9.94A.831.

18 (13) An additional twelve months shall be added to the standard  
19 sentence range for vehicular homicide committed while under the  
20 influence of intoxicating liquor or any drug as defined by RCW  
21 46.61.520 or for vehicular assault committed while under the  
22 influence of intoxicating liquor or any drug as defined by RCW  
23 46.61.522, or for any felony driving under the influence (RCW  
24 46.61.502(6)) or felony physical control under the influence (RCW  
25 46.61.504(6)) for each child passenger under the age of sixteen who  
26 is an occupant in the defendant's vehicle. These enhancements shall  
27 be mandatory, shall be served in total confinement, and shall run  
28 consecutively to all other sentencing provisions, including other  
29 minor child enhancements, for all offenses sentenced under this  
30 chapter. If the addition of a minor child enhancement increases the  
31 sentence so that it would exceed the statutory maximum for the  
32 offense, the portion of the sentence representing the enhancement may  
33 not be reduced.

34 (14) An additional twelve months shall be added to the standard  
35 sentence range for an offense that is also a violation of RCW  
36 9.94A.832.

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

1 (1)(a) When any person charged with a violation of RCW 46.61.502,  
2 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior  
3 offense as defined in RCW 46.61.5055 and the current offense involves  
4 alcohol, is released from custody at arraignment or trial on bail or  
5 personal recognizance, the court authorizing the release shall  
6 require, as a condition of release that person comply with one of the  
7 following four requirements:

8 (i) Have a functioning ignition interlock device installed on all  
9 motor vehicles operated by the person, with proof of installation  
10 filed with the court by the person or the certified interlock  
11 provider within five business days of the date of release from  
12 custody or as soon thereafter as determined by the court based on  
13 availability within the jurisdiction; or

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

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

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

32 (b) The court shall immediately notify the department of  
33 licensing when an ignition interlock restriction is imposed(~~(+-(i))~~)  
34 as a condition of release (~~(pursuant to (a) of this subsection;)~~) or  
35 (~~(+-(i))~~) after conviction in instances where a person is charged  
36 with, or convicted of, a violation of RCW 46.61.502, 46.61.504,  
37 46.61.520, or 46.61.522(~~(, and the offense involves alcohol)~~). If the  
38 court imposes an ignition interlock restriction, the department of  
39 licensing shall attach or imprint a notation on the driving record of  
40 any person restricted under this section stating that the person may

1 operate only a motor vehicle equipped with a functioning ignition  
2 interlock device.

3 (2)(a) Upon acquittal or dismissal of all pending or current  
4 charges relating to a violation of RCW 46.61.502, 46.61.504,  
5 46.61.520, or 46.61.522, or equivalent local ordinance, the court  
6 shall authorize removal of the ignition interlock device and lift any  
7 requirement to comply with electronic alcohol/drug monitoring imposed  
8 under subsection (1) of this section. Nothing in this section limits  
9 the authority of the court or department under RCW 46.20.720.

10 (b) If the court authorizes removal of an ignition interlock  
11 device imposed under this section, the court shall immediately notify  
12 the department of licensing regarding the lifting of the ignition  
13 interlock restriction and the department of licensing shall release  
14 any attachment, imprint, or notation on such person's driving record  
15 relating to the ignition interlock requirement imposed under this  
16 section.

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

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

24 (1) The secretary shall adopt rules specifying the minimum  
25 qualifications for a medical assistant-certified, medical assistant-  
26 hemodialysis technician, medical assistant-phlebotomist, and forensic  
27 phlebotomist.

28 ~~((a))~~ The qualifications for a medical assistant-hemodialysis  
29 technician must be equivalent to the qualifications for hemodialysis  
30 technicians regulated pursuant to chapter 18.135 RCW as of January 1,  
31 2012.

32 ~~((b) The qualifications for a forensic phlebotomist must include  
33 training consistent with the occupational safety and health  
34 administration guidelines and must include between twenty and thirty  
35 hours of work in a clinical setting with the completion of more than  
36 one hundred successful venipunctures. The secretary may not require  
37 more than forty hours of classroom training for initial training,  
38 which may include online preclass homework.)~~

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

6 (3) The medical quality assurance commission, the board of  
7 osteopathic medicine and surgery, the podiatric medical board, the  
8 nursing care quality assurance commission, the board of naturopathy,  
9 and the optometry board shall each review and identify other  
10 specialty assistive personnel not included in this chapter and the  
11 tasks they perform. The department of health shall compile the  
12 information from each disciplining authority listed in this  
13 subsection and submit the compiled information to the legislature no  
14 later than December 15, 2012.

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

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

31 The expense of an emergency response is a charge against the  
32 person liable for expenses under this section. The charge constitutes  
33 a debt of that person and is collectible by the public agency  
34 incurring those costs in the same manner as in the case of an  
35 obligation under a contract, expressed or implied. Following a  
36 conviction of an offense listed in this section, and prior to  
37 sentencing, the prosecution may present to the court information  
38 setting forth the expenses incurred by the public agency for its  
39 emergency response to the incident. Upon a finding by the court that

1 the expenses are reasonable, the court shall order the defendant to  
2 reimburse the public agency. The cost reimbursement shall be included  
3 in the sentencing order as an additional monetary obligation of the  
4 defendant and may not be substituted for any other fine or cost  
5 required or allowed by statute. The court may establish a payment  
6 schedule for the payment of the cost reimbursement, separate from any  
7 payment schedule imposed for other fines and costs.

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

11 If more than one public agency makes a claim for payment from an  
12 individual for an emergency response to a single incident under the  
13 provisions of this section, and the sum of the claims exceeds the  
14 amount recovered, the division of the amount recovered shall be  
15 determined by an interlocal agreement consistent with the  
16 requirements of chapter 39.34 RCW.

17 **Sec. 6.** RCW 46.61.5055 and 2017 c 336 s 6 and 2017 c 335 s 3 are  
18 each reenacted and amended to read as follows:

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

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

28 (i) By imprisonment for not less than ~~((one day))~~ twenty-four  
29 consecutive hours nor more than three hundred sixty-four days.  
30 ~~((Twenty-four consecutive hours of the imprisonment may not be~~  
31 ~~suspended unless the court finds that the imposition of this~~  
32 ~~mandatory minimum sentence would impose a substantial risk to the~~  
33 ~~offender's physical or mental well-being. Whenever the mandatory~~  
34 ~~minimum sentence is suspended, the court shall state in writing the~~  
35 ~~reason for granting the suspension and the facts upon which the~~  
36 ~~suspension is based.))~~ In lieu of the mandatory minimum term of  
37 imprisonment required under this subsection (1)(a)(i), the court, in  
38 its discretion, may order not less than fifteen days of electronic  
39 home monitoring or a ninety-day period of 24/7 sobriety program

1 monitoring. The court may consider the offender's pretrial 24/7  
2 sobriety program monitoring as fulfilling a portion of posttrial  
3 sentencing. The offender shall pay the cost of electronic home  
4 monitoring. The county or municipality in which the penalty is being  
5 imposed shall determine the cost. The court may also require the  
6 offender's electronic home monitoring device or other separate  
7 alcohol monitoring device to include an alcohol detection  
8 breathalyzer, and the court may restrict the amount of alcohol the  
9 offender may consume during the time the offender is on electronic  
10 home monitoring; and

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

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

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



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

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

6 (2) **One prior offense in seven years.** Except as provided in RCW  
7 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
8 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
9 within seven years shall be punished as follows:

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

15 (i) By imprisonment for not less than thirty days nor more than  
16 three hundred sixty-four days and sixty days of electronic home  
17 monitoring. Thirty days of imprisonment and sixty days of electronic  
18 home monitoring may not be suspended unless the court finds that the  
19 imposition of this mandatory minimum sentence would impose a  
20 substantial risk to the offender's physical or mental well-being. If  
21 the offender shows that the imposition of this mandatory minimum  
22 sentence would impose a substantial risk to the offender's physical  
23 or mental well-being, in lieu of the mandatory term of imprisonment  
24 and electronic home monitoring under this subsection (2)(a)(i), the  
25 court may order a minimum of ((four days in jail and)) either one  
26 hundred eighty days of electronic home monitoring or a one hundred  
27 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW  
28 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
29 sentence is suspended, the court shall state in writing the reason  
30 for granting the suspension and the facts upon which the suspension  
31 is based. The court may consider the offender's pretrial 24/7  
32 sobriety program monitoring as fulfilling a portion of posttrial  
33 sentencing. The court shall order an expanded alcohol assessment and  
34 treatment, if deemed appropriate by the assessment. The offender  
35 shall pay for the cost of the electronic monitoring. The county or  
36 municipality where the penalty is being imposed shall determine the  
37 cost. The court may also require the offender's electronic home  
38 monitoring device include an alcohol detection breathalyzer or other  
39 separate alcohol monitoring device, and may restrict the amount of  
40 alcohol the offender may consume during the time the offender is on

1 electronic home monitoring(~~((. Thirty days of imprisonment and sixty~~  
2 ~~days of electronic home monitoring may not be suspended unless the~~  
3 ~~court finds that the imposition of this mandatory minimum sentence~~  
4 ~~would impose a substantial risk to the offender's physical or mental~~  
5 ~~well-being. Whenever the mandatory minimum sentence is suspended, the~~  
6 ~~court shall state in writing the reason for granting the suspension~~  
7 ~~and the facts upon which the suspension is based))~~); and

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

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

16 (i) By imprisonment for not less than forty-five days nor more  
17 than three hundred sixty-four days and ninety days of electronic home  
18 monitoring. Forty-five days of imprisonment and ninety days of  
19 electronic home monitoring may not be suspended unless the court  
20 finds that the imposition of this mandatory minimum sentence would  
21 impose a substantial risk to the offender's physical or mental well-  
22 being. If the offender shows that the imposition of this mandatory  
23 minimum sentence would impose a substantial risk to the offender's  
24 physical or mental well-being, in lieu of the mandatory minimum term  
25 of imprisonment and electronic home monitoring under this subsection  
26 (2)(b)(i), the court may order a minimum of ((six days in jail and))  
27 either six months of electronic home monitoring or a one hundred  
28 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW  
29 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
30 sentence is suspended, the court shall state in writing the reason  
31 for granting the suspension and the facts upon which the suspension  
32 is based. The court may consider the offender's pretrial 24/7  
33 sobriety program monitoring as fulfilling a portion of posttrial  
34 sentencing. The court shall order an expanded alcohol assessment and  
35 treatment, if deemed appropriate by the assessment. The offender  
36 shall pay for the cost of the electronic monitoring. The county or  
37 municipality where the penalty is being imposed shall determine the  
38 cost. The court may also require the offender's electronic home  
39 monitoring device include an alcohol detection breathalyzer or other  
40 separate alcohol monitoring device, and may restrict the amount of

1 alcohol the offender may consume during the time the offender is on  
2 electronic home monitoring(~~(. Forty five days of imprisonment and~~  
3 ~~ninety days of electronic home monitoring may not be suspended unless~~  
4 ~~the court finds that the imposition of this mandatory minimum~~  
5 ~~sentence would impose a substantial risk to the offender's physical~~  
6 ~~or mental well-being. Whenever the mandatory minimum sentence is~~  
7 ~~suspended, the court shall state in writing the reason for granting~~  
8 ~~the suspension and the facts upon which the suspension is based));~~

9 and

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

14 (3) **Two prior offenses in seven years.** Except as provided in RCW  
15 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
16 violation of RCW 46.61.502 or 46.61.504 and who has two prior  
17 offenses within seven years shall be punished as follows:

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

23 (i) By imprisonment for not less than ninety days nor more than  
24 three hundred sixty-four days, if available in that county or city, a  
25 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
26 36.28A.300 through 36.28A.390, and one hundred twenty days of  
27 electronic home monitoring. Ninety days of imprisonment and one  
28 hundred twenty days of electronic home monitoring may not be  
29 suspended unless the court finds that the imposition of this  
30 mandatory minimum sentence would impose a substantial risk to the  
31 offender's physical or mental well-being. If the offender shows that  
32 the imposition of this mandatory minimum sentence would impose a  
33 substantial risk to the offender's physical or mental well-being, in  
34 lieu of the mandatory minimum term of ninety days of imprisonment and  
35 one hundred twenty days of electronic home monitoring, the court may  
36 order ((at least an additional eight days in jail)) three hundred  
37 sixty days of electronic home monitoring or a three hundred sixty-day  
38 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through  
39 36.28A.390. Whenever the mandatory minimum sentence is suspended, the  
40 court shall state in writing the reason for granting the suspension

1 and the facts upon which the suspension is based. The court shall  
2 order an expanded alcohol assessment and treatment, if deemed  
3 appropriate by the assessment. The offender shall pay for the cost of  
4 the electronic monitoring. The county or municipality where the  
5 penalty is being imposed shall determine the cost. The court may also  
6 require the offender's electronic home monitoring device include an  
7 alcohol detection breathalyzer or other separate alcohol monitoring  
8 device, and may restrict the amount of alcohol the offender may  
9 consume during the time the offender is on electronic home  
10 monitoring(~~(. Ninety days of imprisonment and one hundred twenty days~~  
11 ~~of electronic home monitoring may not be suspended unless the court~~  
12 ~~finds that the imposition of this mandatory minimum sentence would~~  
13 ~~impose a substantial risk to the offender's physical or mental well-~~  
14 ~~being. Whenever the mandatory minimum sentence is suspended, the~~  
15 ~~court shall state in writing the reason for granting the suspension~~  
16 ~~and the facts upon which the suspension is based)); and~~

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

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

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

1 to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
2 sentence is suspended, the court shall state in writing the reason  
3 for granting the suspension and the facts upon which the suspension  
4 is based. The offender shall pay for the cost of the electronic  
5 monitoring. The court shall order an expanded alcohol assessment and  
6 treatment, if deemed appropriate by the assessment. The county or  
7 municipality where the penalty is being imposed shall determine the  
8 cost. The court may also require the offender's electronic home  
9 monitoring device include an alcohol detection breathalyzer or other  
10 separate alcohol monitoring device, and may restrict the amount of  
11 alcohol the offender may consume during the time the offender is on  
12 electronic home monitoring(~~(. One hundred twenty days of imprisonment~~  
13 ~~and one hundred fifty days of electronic home monitoring may not be~~  
14 ~~suspended unless the court finds that the imposition of this~~  
15 ~~mandatory minimum sentence would impose a substantial risk to the~~  
16 ~~offender's physical or mental well-being. Whenever the mandatory~~  
17 ~~minimum sentence is suspended, the court shall state in writing the~~  
18 ~~reason for granting the suspension and the facts upon which the~~  
19 ~~suspension is based)); and~~

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

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

27 (a) The person has three or more prior offenses within ten years;  
28 or

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

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

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

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

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

37 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall  
38 require any person convicted of a violation of RCW 46.61.502 or  
39 46.61.504 or an equivalent local ordinance to comply with the rules  
40 and requirements of the department regarding the installation and use

1 of a functioning ignition interlock device installed on all motor  
2 vehicles operated by the person.

3 (b) **Monitoring devices.** If the court orders that a person refrain  
4 from consuming any alcohol, the court may order the person to submit  
5 to alcohol monitoring through an alcohol detection breathalyzer  
6 device, transdermal sensor device, or other technology designed to  
7 detect alcohol in a person's system. The person shall pay for the  
8 cost of the monitoring, unless the court specifies that the cost of  
9 monitoring will be paid with funds that are available from an  
10 alternative source identified by the court. The county or  
11 municipality where the penalty is being imposed shall determine the  
12 cost.

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

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

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

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

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

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

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

1 the age of sixteen may not be suspended unless the court finds the  
2 offender to be indigent;

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

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

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

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

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

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

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

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

38 (9) **Driver's license privileges of the defendant.** The license,  
39 permit, or nonresident privilege of a person convicted of driving or

1 being in physical control of a motor vehicle while under the  
2 influence of intoxicating liquor or drugs must:

3 (a) **Penalty for alcohol concentration less than 0.15.** If the  
4 person's alcohol concentration was less than 0.15, or if for reasons  
5 other than the person's refusal to take a test offered under RCW  
6 46.20.308 there is no test result indicating the person's alcohol  
7 concentration:

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

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

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

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

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

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

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

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



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

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

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

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

11 Upon receipt of a notice from the court under RCW 36.28A.390 that  
12 a participant has been removed from a 24/7 sobriety program, the  
13 department must resume any suspension, revocation, or denial that had  
14 been terminated early under this subsection due to participation in  
15 the program, granting credit on a day-for-day basis for any portion  
16 of a suspension, revocation, or denial already served under RCW  
17 46.20.3101 or this section arising out of the same incident.

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

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

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

36 **(11) Conditions of probation.** (a) In addition to any  
37 nonsuspendable and nondeferrable jail sentence required by this  
38 section, whenever the court imposes up to three hundred sixty-four  
39 days in jail, the court shall also suspend but shall not defer a  
40 period of confinement for a period not exceeding five years. The

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

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

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

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

39 (a) The offender does not have a dwelling, telephone service, or  
40 any other necessity to operate an electronic home monitoring system.

1 However, if a court determines that an alcohol monitoring device  
2 utilizing wireless reporting technology is reasonably available, the  
3 court may require the person to obtain such a device during the  
4 period of required electronic home monitoring;

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

6 (c) The court determines that there is reason to believe that the  
7 offender would violate the conditions of the electronic home  
8 monitoring penalty.

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

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

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

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

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

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

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

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

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

38 (v) A conviction for a violation of RCW 79A.60.040(1) or an  
39 equivalent local ordinance committed in a reckless manner if the

1 conviction is the result of a charge that was originally filed as a  
2 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

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

6 (vii) A conviction for a violation of RCW 47.68.220 or an  
7 equivalent local ordinance committed in a careless or reckless manner  
8 if the conviction is the result of a charge that was originally filed  
9 as a violation of RCW 47.68.220 or an equivalent local ordinance  
10 while under the influence of intoxicating liquor or any drug;

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

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

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

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

29 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,  
30 or 9A.36.050 or an equivalent local ordinance, if the conviction is  
31 the result of a charge that was originally filed as a violation of  
32 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of  
33 RCW 46.61.520 or 46.61.522;

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

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

1 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
2 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
3 ordinance, if the charge under which the deferred prosecution was  
4 granted was originally filed as a violation of RCW 46.61.502 or  
5 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
6 46.61.522;

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

13 (xvii) A deferred sentence imposed in a prosecution for a  
14 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
15 equivalent local ordinance, if the charge under which the deferred  
16 sentence was imposed was originally filed as a violation of RCW  
17 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
18 violation of RCW 46.61.520 or 46.61.522;

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

23 (b) "Treatment" means substance use disorder treatment approved  
24 by the department of social and health services;

25 (c) "Within seven years" means that the arrest for a prior  
26 offense occurred within seven years before or after the arrest for  
27 the current offense; and

28 (d) "Within ten years" means that the arrest for a prior offense  
29 occurred within ten years before or after the arrest for the current  
30 offense.

31 (15) All fines imposed by this section apply to adult offenders  
32 only.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.20  
34 RCW to read as follows:

35 If an ignition interlock device lockout condition occurs, the  
36 ignition interlock device manufacturer may authorize and provide a  
37 temporary bypass mechanism that allows the restricted person or  
38 another person to remove the lockout condition for up to twenty-four  
39 hours in order for the vehicle equipped with the ignition interlock

1 device to be transported for service of the device. A bypass  
2 mechanism may only be authorized once per lockout condition incident.  
3 The use of a bypass mechanism must be displayed within the data log  
4 that is downloaded by the manufacturer and must be reported to the  
5 Washington state patrol within seven days of the download.

6 **Sec. 8.** RCW 43.43.395 and 2015 2nd sp.s. c 3 s 11 are each  
7 amended to read as follows:

8 (1) The state patrol shall by rule provide standards for the  
9 certification, installation, repair, maintenance, monitoring,  
10 inspection, and removal of ignition interlock devices, as defined  
11 under RCW 46.04.215, and equipment as outlined under this section,  
12 and may inspect the records and equipment of manufacturers and  
13 vendors during regular business hours for compliance with statutes  
14 and rules and may suspend or revoke certification for any  
15 noncompliance.

16 (2)(a) When a certified service provider or individual installer  
17 of ignition interlock devices is found to be out of compliance, the  
18 installation privileges of that certified service provider or  
19 individual installer may be suspended or revoked until the certified  
20 service provider or individual installer comes into compliance.  
21 During any suspension or revocation period, the certified service  
22 provider or individual installer is responsible for notifying  
23 affected customers of any changes in their service agreement.

24 (b) A certified service provider or individual installer whose  
25 certification is suspended or revoked for noncompliance has a right  
26 to an administrative hearing under chapter 34.05 RCW to contest the  
27 suspension or revocation, or both. For the administrative hearing,  
28 the procedure and rules of evidence are as specified in chapter 34.05  
29 RCW, except as otherwise provided in this chapter. Any request for an  
30 administrative hearing must be made in writing and must be received  
31 by the state patrol within twenty days after the receipt of the  
32 notice of suspension or revocation.

33 (3)(a) An ignition interlock device must employ:

34 (i) Fuel cell technology. For the purposes of this subsection,  
35 "fuel cell technology" consists of the following electrochemical  
36 method: An electrolyte designed to oxidize the alcohol and release  
37 electrons to be collected by an active electrode; a current flow is  
38 generated within the electrode proportional to the amount of alcohol  
39 oxidized on the fuel cell surface; and the electrical current is

1 measured and reported as breath alcohol concentration. Fuel cell  
2 technology is highly specific for alcohols;

3 (ii) Technology capable of taking a photo identification of the  
4 user giving the breath sample and recording on the photo the time the  
5 breath sample was given; (~~and~~)

6 (iii) Technology capable of providing the global positioning  
7 coordinates at the time of each test sequence. Such coordinates must  
8 be displayed within the data log that is downloaded by the  
9 manufacturer and must be made available to the state patrol to be  
10 used for circumvention and tampering investigations; and

11 (iv) Technology capable of allowing a device lockout condition to  
12 be bypassed by a restricted person or other person for up to twenty-  
13 four hours upon authorization of the device manufacturer.

14 (b) To be certified, an ignition interlock device must:

15 (i) Meet or exceed the minimum test standards according to rules  
16 adopted by the state patrol. Only a notarized statement from a  
17 laboratory that is accredited and certified under the current edition  
18 of ISO (the international organization of standardization) 17025  
19 standard for testing and calibration laboratories and is capable of  
20 performing the tests specified will be accepted as proof of meeting  
21 or exceeding the standards. The notarized statement must include the  
22 name and signature of the person in charge of the tests under the  
23 certification statement. The state patrol must adopt by rule the  
24 required language of the certification statement that must, at a  
25 minimum, outline that the testing meets or exceeds all specifications  
26 listed in the federal register adopted in rule by the state patrol;  
27 and

28 (ii) Be maintained in accordance with the rules and standards  
29 adopted by the state patrol.

30 **Sec. 9.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each  
31 amended to read as follows:

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

35 (a) Tampers with the device by modifying, detaching,  
36 disconnecting, or otherwise disabling it to allow the restricted  
37 driver to operate the vehicle;

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

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

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

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

20 (3) This section does not apply if the conduct is authorized  
21 under section 7 of this act.

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

26 NEW SECTION. **Sec. 10.** Section 6 of this act takes effect April  
27 1, 2019.

--- END ---