
HOUSE BILL 2715

State of Washington 65th Legislature 2018 Regular Session

By Representatives Klippert and Goodman

Read first time 01/12/18. Referred to Committee on Public Safety.

1 AN ACT Relating to impaired driving; amending RCW 9.94A.729,
2 9.94A.533, 10.21.055, 18.360.030, and 38.52.430; reenacting and
3 amending RCW 46.61.5055; and prescribing penalties.

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

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

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

16 (b) Any program established pursuant to this section shall allow
17 an offender to earn early release credits for presentence
18 incarceration. If an offender is transferred from a county jail to
19 the department, the administrator of a county jail facility shall
20 certify to the department the amount of time spent in custody at the
21 facility and the number of days of early release credits lost or not

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

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

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

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

23 (a) In the case of an offender sentenced pursuant to RCW
24 10.95.030(3) or 10.95.035, the offender may not receive any earned
25 early release time during the minimum term of confinement imposed by
26 the court; for any remaining portion of the sentence served by the
27 offender, the aggregate earned release time may not exceed ten
28 percent of the sentence.

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

33 (c) In the case of an offender convicted of a serious violent
34 offense, or a sex offense that is a class A felony, committed on or
35 after July 1, 2003, the aggregate earned release time may not exceed
36 ten percent of the sentence.

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

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

1 (ii) Is not confined pursuant to a sentence for:
2 (A) A sex offense;
3 (B) A violent offense;
4 (C) A crime against persons as defined in RCW 9.94A.411;
5 (D) A felony that is domestic violence as defined in RCW
6 10.99.020;
7 (E) A violation of RCW 9A.52.025 (residential burglary);
8 (F) A violation of, or an attempt, solicitation, or conspiracy to
9 violate, RCW 69.50.401 by manufacture or delivery or possession with
10 intent to deliver methamphetamine; or
11 (G) A violation of, or an attempt, solicitation, or conspiracy to
12 violate, RCW 69.50.406 (delivery of a controlled substance to a
13 minor);
14 (iii) Has no prior conviction for the offenses listed in (d)(ii)
15 of this subsection;
16 (iv) Participates in programming or activities as directed by the
17 offender's individual reentry plan as provided under RCW 72.09.270 to
18 the extent that such programming or activities are made available by
19 the department; and
20 (v) Has not committed a new felony after July 22, 2007, while
21 under community custody.
22 (e) In no other case shall the aggregate earned release time
23 exceed one-third of the total sentence.
24 (4) The department shall perform a risk assessment of each
25 offender who may qualify for earned early release under subsection
26 (3)(d) of this section utilizing the risk assessment tool recommended
27 by the Washington state institute for public policy. Subsection
28 (3)(d) of this section does not apply to offenders convicted after
29 July 1, 2010.
30 (5)(a) A person who is eligible for earned early release as
31 provided in this section and who will be supervised by the department
32 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
33 community custody in lieu of earned release time;
34 (b) The department shall, as a part of its program for release to
35 the community in lieu of earned release, require the offender to
36 propose a release plan that includes an approved residence and living
37 arrangement. All offenders with community custody terms eligible for
38 release to community custody in lieu of earned release shall provide
39 an approved residence and living arrangement prior to release to the
40 community;

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

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

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

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

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

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

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

35 (6) An offender serving a term of confinement imposed under RCW
36 9.94A.670(5)(a) is not eligible for earned release credits under this
37 section.

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

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

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

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

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

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

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

35 (d) If the offender is being sentenced for any firearm
36 enhancements under (a), (b), and/or (c) of this subsection and the
37 offender has previously been sentenced for any deadly weapon
38 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
39 subsection or subsection (4)(a), (b), and/or (c) of this section, or

1 both, all firearm enhancements under this subsection shall be twice
2 the amount of the enhancement listed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (g) If the standard sentence range under this section exceeds the
35 statutory maximum sentence for the offense, the statutory maximum
36 sentence shall be the presumptive sentence unless the offender is a
37 persistent offender. If the addition of a deadly weapon enhancement
38 increases the sentence so that it would exceed the statutory maximum
39 for the offense, the portion of the sentence representing the
40 enhancement may not be reduced.

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

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

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

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

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

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

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

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

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

38 (8)(a) The following additional times shall be added to the
39 standard sentence range for felony crimes committed on or after July
40 1, 2006, if the offense was committed with sexual motivation, as that

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

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

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

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

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

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

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

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

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

37 (d) If the standard sentence range under this subsection exceeds
38 the statutory maximum sentence for the offense, the statutory maximum
39 sentence shall be the presumptive sentence unless the offender is a
40 persistent offender. If the addition of a sexual motivation

1 enhancement increases the sentence so that it would exceed the
2 statutory maximum for the offense, the portion of the sentence
3 representing the enhancement may not be reduced;

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

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

10 (9) An additional one-year enhancement shall be added to the
11 standard sentence range for the felony crimes of RCW 9A.44.073,
12 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
13 or after July 22, 2007, if the offender engaged, agreed, or offered
14 to engage the victim in the sexual conduct in return for a fee. If
15 the offender is being sentenced for more than one offense, the
16 one-year enhancement must be added to the total period of total
17 confinement for all offenses, regardless of which underlying offense
18 is subject to the enhancement. If the offender is being sentenced for
19 an anticipatory offense for the felony crimes of RCW 9A.44.073,
20 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
21 offender attempted, solicited another, or conspired to engage, agree,
22 or offer to engage the victim in the sexual conduct in return for a
23 fee, an additional one-year enhancement shall be added to the
24 standard sentence range determined under subsection (2) of this
25 section. For purposes of this subsection, "sexual conduct" means
26 sexual intercourse or sexual contact, both as defined in chapter
27 9A.44 RCW.

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

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

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

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

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

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

31 (14) An additional twelve months shall be added to the standard
32 sentence range for an offense that is also a violation of RCW
33 9.94A.832.

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

36 (1)(a) When any person charged with a violation of RCW 46.61.502,
37 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
38 offense as defined in RCW 46.61.5055 and the current offense involves
39 alcohol, is released from custody at arraignment or trial on bail or

1 personal recognizance, the court authorizing the release shall
2 require, as a condition of release that person comply with one of the
3 following four requirements:

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

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

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

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

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

39 (2)(a) Upon acquittal or dismissal of all pending or current
40 charges relating to a violation of RCW 46.61.502, 46.61.504,

1 46.61.520, or 46.61.522, or equivalent local ordinance, the court
2 shall authorize removal of the ignition interlock device and lift any
3 requirement to comply with electronic alcohol/drug monitoring imposed
4 under subsection (1) of this section. Nothing in this section limits
5 the authority of the court or department under RCW 46.20.720.

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

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

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

20 (1) The secretary shall adopt rules specifying the minimum
21 qualifications for a medical assistant-certified, medical assistant-
22 hemodialysis technician, medical assistant-phlebotomist, and forensic
23 phlebotomist.

24 ~~((a))~~ The qualifications for a medical assistant-hemodialysis
25 technician must be equivalent to the qualifications for hemodialysis
26 technicians regulated pursuant to chapter 18.135 RCW as of January 1,
27 2012.

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

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

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

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

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

26 The expense of an emergency response is a charge against the
27 person liable for expenses under this section. The charge constitutes
28 a debt of that person and is collectible by the public agency
29 incurring those costs in the same manner as in the case of an
30 obligation under a contract, expressed or implied. Following a
31 conviction of an offense listed in this section, and prior to
32 sentencing, the prosecution may present to the court information
33 setting forth the expenses incurred by the public agency for its
34 emergency response to the incident. Upon a finding by the court that
35 the expenses are reasonable, the court shall order the defendant to
36 reimburse the public agency. The cost reimbursement shall be included
37 in the sentencing order as an additional monetary obligation of the
38 defendant and may not be substituted for any other fine or cost
39 required or allowed by statute. The court may establish a payment

1 schedule for the payment of the cost reimbursement, separate from any
2 payment schedule imposed for other fines and costs.

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

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

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

14 (1) **No 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 no prior offense
17 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 one day nor more than three
24 hundred sixty-four days. ~~((Twenty-four consecutive hours of the
25 imprisonment may not be suspended unless the court finds that the
26 imposition of this mandatory minimum sentence would impose a
27 substantial risk to the offender's physical or mental well-being.
28 Whenever the mandatory minimum sentence is suspended, the court shall
29 state in writing the reason for granting the suspension and the facts
30 upon which the suspension is based.))~~ In lieu of the mandatory
31 minimum term of imprisonment required under this subsection
32 (1)(a)(i), the court, in its discretion, may order not less than
33 fifteen days of electronic home monitoring or a ninety-day period of
34 24/7 sobriety program monitoring. The court may consider the
35 offender's pretrial 24/7 sobriety program monitoring as fulfilling a
36 portion of posttrial sentencing. The offender shall pay the cost of
37 electronic home monitoring. The county or municipality in which the
38 penalty is being imposed shall determine the cost. The court may also
39 require the offender's electronic home monitoring device or other

1 separate alcohol monitoring device to include an alcohol detection
2 breathalyzer, and the court may restrict the amount of alcohol the
3 offender may consume during the time the offender is on electronic
4 home monitoring; and

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

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

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

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

38 (2) **One prior offense in seven years.** Except as provided in RCW
39 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
2 within seven years shall be punished as follows:

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

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

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

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

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

1 ~~the suspension and the facts upon which the suspension is based~~));
2 and

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

7 (3) **Two prior offenses in seven years.** Except as provided in RCW
8 46.61.502(6) or 46.61.504(6), a person who is convicted of a
9 violation of RCW 46.61.502 or 46.61.504 and who has two prior
10 offenses within seven years shall be punished as follows:

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

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

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

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

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

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

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

15 (a) The person has three or more prior offenses within ten years;
16 or

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

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

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

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

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

25 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
26 require any person convicted of a violation of RCW 46.61.502 or
27 46.61.504 or an equivalent local ordinance to comply with the rules
28 and requirements of the department regarding the installation and use
29 of a functioning ignition interlock device installed on all motor
30 vehicles operated by the person.

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

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

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

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

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

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

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

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

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

39 (d) In any case in which the person has two prior offenses within
40 seven years, and except as provided in RCW 46.61.502(6) or

1 46.61.504(6), order an additional ten days of imprisonment to be
2 served consecutively for each passenger under the age of sixteen, and
3 a fine of not less than three thousand dollars and not more than ten
4 thousand dollars for each passenger under the age of sixteen. One
5 thousand dollars of the fine for each passenger under the age of
6 sixteen may not be suspended unless the court finds the offender to
7 be indigent.

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

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

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

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

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

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

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

29 (a) **Penalty for alcohol concentration less than 0.15.** If the
30 person's alcohol concentration was less than 0.15, or if for reasons
31 other than the person's refusal to take a test offered under RCW
32 46.20.308 there is no test result indicating the person's alcohol
33 concentration:

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

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

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

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

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

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

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

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

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

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

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

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

37 Upon receipt of a notice from the court under RCW 36.28A.390 that
38 a participant has been removed from a 24/7 sobriety program, the
39 department must resume any suspension, revocation, or denial that had
40 been terminated early under this subsection due to participation in

1 the program, granting credit on a day-for-day basis for any portion
2 of a suspension, revocation, or denial already served under RCW
3 46.20.3101 or this section arising out of the same incident.

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

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

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

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

1 this state without a functioning ignition interlock device as
2 required by the department under RCW 46.20.720. The court may impose
3 conditions of probation that include nonrepetition, installation of
4 an ignition interlock device on the probationer's motor vehicle,
5 alcohol or drug treatment, supervised probation, or other conditions
6 that may be appropriate. The sentence may be imposed in whole or in
7 part upon violation of a condition of probation during the suspension
8 period.

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

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

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

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

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

32 (c) The court determines that there is reason to believe that the
33 offender would violate the conditions of the electronic home
34 monitoring penalty.

35 Whenever the mandatory minimum term of electronic home monitoring
36 is waived, the court shall state in writing the reason for granting
37 the waiver and the facts upon which the waiver is based, and shall
38 impose an alternative sentence with similar punitive consequences.
39 The alternative sentence may include, but is not limited to, use of

1 an ignition interlock device, the 24/7 sobriety program monitoring,
2 additional jail time, work crew, or work camp.

3 Whenever the combination of jail time and electronic home
4 monitoring or alternative sentence would exceed three hundred sixty-
5 four days, the offender shall serve the jail portion of the sentence
6 first, and the electronic home monitoring or alternative portion of
7 the sentence shall be reduced so that the combination does not exceed
8 three hundred sixty-four days.

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

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

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

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

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

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

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

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

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

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

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

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

1 (x) A conviction for a violation of RCW 46.61.520 committed while
2 under the influence of intoxicating liquor or any drug, or a
3 conviction for a violation of RCW 46.61.520 committed in a reckless
4 manner or with the disregard for the safety of others if the
5 conviction is the result of a charge that was originally filed as a
6 violation of RCW 46.61.520 committed while under the influence of
7 intoxicating liquor or any drug;

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

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

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

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

26 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
27 prosecution for a violation of RCW 46.61.5249, or an equivalent local
28 ordinance, if the charge under which the deferred prosecution was
29 granted was originally filed as a violation of RCW 46.61.502 or
30 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
31 46.61.522;

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

38 (xvii) A deferred sentence imposed in a prosecution for a
39 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
40 equivalent local ordinance, if the charge under which the deferred

1 sentence was imposed was originally filed as a violation of RCW
2 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
3 violation of RCW 46.61.520 or 46.61.522;

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

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

10 (c) "Within seven years" means that the arrest for a prior
11 offense occurred within seven years before or after the arrest for
12 the current offense; and

13 (d) "Within ten years" means that the arrest for a prior offense
14 occurred within ten years before or after the arrest for the current
15 offense.

16 (15) All fines imposed by this section apply to adult offenders
17 only.

--- END ---