
SUBSTITUTE HOUSE BILL 1493

State of Washington

68th Legislature

2023 Regular Session

By House Community Safety, Justice, & Reentry (originally sponsored by Representative Goodman)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to impaired driving; amending RCW 9.94A.030,
2 10.05.060, 46.20.355, 46.20.385, 46.20.720, 46.20.740, 46.52.130, and
3 46.61.5055; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.030 and 2022 c 231 s 11 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Board" means the indeterminate sentence review board created
10 under chapter 9.95 RCW.

11 (2) "Collect," or any derivative thereof, "collect and remit," or
12 "collect and deliver," when used with reference to the department,
13 means that the department, either directly or through a collection
14 agreement authorized by RCW 9.94A.760, is responsible for monitoring
15 and enforcing the offender's sentence with regard to the legal
16 financial obligation, receiving payment thereof from the offender,
17 and, consistent with current law, delivering daily the entire payment
18 to the superior court clerk without depositing it in a departmental
19 account.

20 (3) "Commission" means the sentencing guidelines commission.

1 (4) "Community corrections officer" means an employee of the
2 department who is responsible for carrying out specific duties in
3 supervision of sentenced offenders and monitoring of sentence
4 conditions.

5 (5) "Community custody" means that portion of an offender's
6 sentence of confinement in lieu of earned release time or imposed as
7 part of a sentence under this chapter and served in the community
8 subject to controls placed on the offender's movement and activities
9 by the department.

10 (6) "Community protection zone" means the area within 880 feet of
11 the facilities and grounds of a public or private school.

12 (7) "Community restitution" means compulsory service, without
13 compensation, performed for the benefit of the community by the
14 offender.

15 (8) "Confinement" means total or partial confinement.

16 (9) "Conviction" means an adjudication of guilt pursuant to Title
17 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
18 and acceptance of a plea of guilty.

19 (10) "Crime-related prohibition" means an order of a court
20 prohibiting conduct that directly relates to the circumstances of the
21 crime for which the offender has been convicted, and shall not be
22 construed to mean orders directing an offender affirmatively to
23 participate in rehabilitative programs or to otherwise perform
24 affirmative conduct. However, affirmative acts necessary to monitor
25 compliance with the order of a court may be required by the
26 department.

27 (11) "Criminal history" means the list of a defendant's prior
28 convictions and juvenile adjudications, whether in this state, in
29 federal court, or elsewhere, and any issued certificates of
30 restoration of opportunity pursuant to RCW 9.97.020.

31 (a) The history shall include, where known, for each conviction
32 (i) whether the defendant has been placed on probation and the length
33 and terms thereof; and (ii) whether the defendant has been
34 incarcerated and the length of incarceration.

35 (b) A conviction may be removed from a defendant's criminal
36 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
37 9.95.240, or a similar out-of-state statute, or if the conviction has
38 been vacated pursuant to a governor's pardon. However, when a
39 defendant is charged with a recidivist offense, "criminal history"
40 includes a vacated prior conviction for the sole purpose of

1 establishing that such vacated prior conviction constitutes an
2 element of the present recidivist offense as provided in RCW
3 9.94A.640(4)(b) and 9.96.060(7)(c).

4 (c) The determination of a defendant's criminal history is
5 distinct from the determination of an offender score. A prior
6 conviction that was not included in an offender score calculated
7 pursuant to a former version of the sentencing reform act remains
8 part of the defendant's criminal history.

9 (12) "Criminal street gang" means any ongoing organization,
10 association, or group of three or more persons, whether formal or
11 informal, having a common name or common identifying sign or symbol,
12 having as one of its primary activities the commission of criminal
13 acts, and whose members or associates individually or collectively
14 engage in or have engaged in a pattern of criminal street gang
15 activity. This definition does not apply to employees engaged in
16 concerted activities for their mutual aid and protection, or to the
17 activities of labor and bona fide nonprofit organizations or their
18 members or agents.

19 (13) "Criminal street gang associate or member" means any person
20 who actively participates in any criminal street gang and who
21 intentionally promotes, furthers, or assists in any criminal act by
22 the criminal street gang.

23 (14) "Criminal street gang-related offense" means any felony or
24 misdemeanor offense, whether in this state or elsewhere, that is
25 committed for the benefit of, at the direction of, or in association
26 with any criminal street gang, or is committed with the intent to
27 promote, further, or assist in any criminal conduct by the gang, or
28 is committed for one or more of the following reasons:

29 (a) To gain admission, prestige, or promotion within the gang;

30 (b) To increase or maintain the gang's size, membership,
31 prestige, dominance, or control in any geographical area;

32 (c) To exact revenge or retribution for the gang or any member of
33 the gang;

34 (d) To obstruct justice, or intimidate or eliminate any witness
35 against the gang or any member of the gang;

36 (e) To directly or indirectly cause any benefit, aggrandizement,
37 gain, profit, or other advantage for the gang, its reputation,
38 influence, or membership; or

39 (f) To provide the gang with any advantage in, or any control or
40 dominance over any criminal market sector, including, but not limited

1 to, manufacturing, delivering, or selling any controlled substance
2 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
3 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
4 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
5 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
6 9.68 RCW).

7 (15) "Day fine" means a fine imposed by the sentencing court that
8 equals the difference between the offender's net daily income and the
9 reasonable obligations that the offender has for the support of the
10 offender and any dependents.

11 (16) "Day reporting" means a program of enhanced supervision
12 designed to monitor the offender's daily activities and compliance
13 with sentence conditions, and in which the offender is required to
14 report daily to a specific location designated by the department or
15 the sentencing court.

16 (17) "Department" means the department of corrections.

17 (18) "Determinate sentence" means a sentence that states with
18 exactitude the number of actual years, months, or days of total
19 confinement, of partial confinement, of community custody, the number
20 of actual hours or days of community restitution work, or dollars or
21 terms of a legal financial obligation. The fact that an offender
22 through earned release can reduce the actual period of confinement
23 shall not affect the classification of the sentence as a determinate
24 sentence.

25 (19) "Disposable earnings" means that part of the earnings of an
26 offender remaining after the deduction from those earnings of any
27 amount required by law to be withheld. For the purposes of this
28 definition, "earnings" means compensation paid or payable for
29 personal services, whether denominated as wages, salary, commission,
30 bonuses, or otherwise, and, notwithstanding any other provision of
31 law making the payments exempt from garnishment, attachment, or other
32 process to satisfy a court-ordered legal financial obligation,
33 specifically includes periodic payments pursuant to pension or
34 retirement programs, or insurance policies of any type, but does not
35 include payments made under Title 50 RCW, except as provided in RCW
36 50.40.020 and 50.40.050, or Title 74 RCW.

37 (20)(a) "Domestic violence" has the same meaning as defined in
38 RCW 10.99.020.

39 (b) "Domestic violence" also means: (i) Physical harm, bodily
40 injury, assault, or the infliction of fear of imminent physical harm,

1 bodily injury, or assault, sexual assault, or stalking, as defined in
2 RCW 9A.46.110, of one intimate partner by another intimate partner as
3 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
4 assault, or the infliction of fear of imminent physical harm, bodily
5 injury, or assault, sexual assault, or stalking, as defined in RCW
6 9A.46.110, of one family or household member by another family or
7 household member as defined in RCW 10.99.020.

8 (21) "Drug offender sentencing alternative" is a sentencing
9 option available to persons convicted of a felony offense who are
10 eligible for the option under RCW 9.94A.660.

11 (22) "Drug offense" means:

12 (a) Any felony violation of chapter 69.50 RCW except possession
13 of a controlled substance (RCW 69.50.4013) or forged prescription for
14 a controlled substance (RCW 69.50.403);

15 (b) Any offense defined as a felony under federal law that
16 relates to the possession, manufacture, distribution, or
17 transportation of a controlled substance; or

18 (c) Any out-of-state conviction for an offense that under the
19 laws of this state would be a felony classified as a drug offense
20 under (a) of this subsection.

21 (23) "Earned release" means earned release from confinement as
22 provided in RCW 9.94A.728.

23 (24) "Electronic monitoring" means tracking the location of an
24 individual through the use of technology that is capable of
25 determining or identifying the monitored individual's presence or
26 absence at a particular location including, but not limited to:

27 (a) Radio frequency signaling technology, which detects if the
28 monitored individual is or is not at an approved location and
29 notifies the monitoring agency of the time that the monitored
30 individual either leaves the approved location or tampers with or
31 removes the monitoring device; or

32 (b) Active or passive global positioning system technology, which
33 detects the location of the monitored individual and notifies the
34 monitoring agency of the monitored individual's location and which
35 may also include electronic monitoring with victim notification
36 technology that is capable of notifying a victim or protected party,
37 either directly or through a monitoring agency, if the monitored
38 individual enters within the restricted distance of a victim or
39 protected party, or within the restricted distance of a designated
40 location.

1 (25) "Escape" means:

2 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
3 the first degree (RCW 9A.76.110), escape in the second degree (RCW
4 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
5 willful failure to return from work release (RCW 72.65.070), or
6 willful failure to be available for supervision by the department
7 while in community custody (RCW 72.09.310); or

8 (b) Any federal or out-of-state conviction for an offense that
9 under the laws of this state would be a felony classified as an
10 escape under (a) of this subsection.

11 (26) "Felony traffic offense" means:

12 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
13 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
14 run injury-accident (RCW 46.52.020(4)), felony driving while under
15 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
16 or felony physical control of a vehicle while under the influence of
17 intoxicating liquor or any drug (RCW 46.61.504(6)); or

18 (b) Any federal or out-of-state conviction for an offense that
19 under the laws of this state would be a felony classified as a felony
20 traffic offense under (a) of this subsection.

21 (27) "Fine" means a specific sum of money ordered by the
22 sentencing court to be paid by the offender to the court over a
23 specific period of time.

24 (28) "First-time offender" means any person who has no prior
25 convictions for a felony and is eligible for the first-time offender
26 waiver under RCW 9.94A.650.

27 (29) "Home detention" is a subset of electronic monitoring and
28 means a program of partial confinement available to offenders wherein
29 the offender is confined in a private residence 24 hours a day,
30 unless an absence from the residence is approved, authorized, or
31 otherwise permitted in the order by the court or other supervising
32 agency that ordered home detention, and the offender is subject to
33 electronic monitoring.

34 (30) "Homelessness" or "homeless" means a condition where an
35 individual lacks a fixed, regular, and adequate nighttime residence
36 and who has a primary nighttime residence that is:

37 (a) A supervised, publicly or privately operated shelter designed
38 to provide temporary living accommodations;

39 (b) A public or private place not designed for, or ordinarily
40 used as, a regular sleeping accommodation for human beings; or

1 (c) A private residence where the individual stays as a transient
2 invitee.

3 (31) "Legal financial obligation" means a sum of money that is
4 ordered by a superior court of the state of Washington for legal
5 financial obligations which may include restitution to the victim,
6 statutorily imposed crime victims' compensation fees as assessed
7 pursuant to RCW 7.68.035, court costs, county or interlocal drug
8 funds, court-appointed attorneys' fees, and costs of defense, fines,
9 and any other financial obligation that is assessed to the offender
10 as a result of a felony conviction. Upon conviction for vehicular
11 assault while under the influence of intoxicating liquor or any drug,
12 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
13 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
14 financial obligations may also include payment to a public agency of
15 the expense of an emergency response to the incident resulting in the
16 conviction, subject to RCW 38.52.430.

17 (32) "Most serious offense" means any of the following felonies
18 or a felony attempt to commit any of the following felonies:

19 (a) Any felony defined under any law as a class A felony or
20 criminal solicitation of or criminal conspiracy to commit a class A
21 felony;

22 (b) Assault in the second degree;

23 (c) Assault of a child in the second degree;

24 (d) Child molestation in the second degree;

25 (e) Controlled substance homicide;

26 (f) Extortion in the first degree;

27 (g) Incest when committed against a child under age 14;

28 (h) Indecent liberties;

29 (i) Kidnapping in the second degree;

30 (j) Leading organized crime;

31 (k) Manslaughter in the first degree;

32 (l) Manslaughter in the second degree;

33 (m) Promoting prostitution in the first degree;

34 (n) Rape in the third degree;

35 (o) Sexual exploitation;

36 (p) Vehicular assault, when caused by the operation or driving of
37 a vehicle by a person while under the influence of intoxicating
38 liquor or any drug or by the operation or driving of a vehicle in a
39 reckless manner;

1 (q) Vehicular homicide, when proximately caused by the driving of
2 any vehicle by any person while under the influence of intoxicating
3 liquor or any drug as defined by RCW 46.61.502, or by the operation
4 of any vehicle in a reckless manner;

5 (r) Any other class B felony offense with a finding of sexual
6 motivation;

7 (s) Any other felony with a deadly weapon verdict under RCW
8 9.94A.825;

9 (t) Any felony offense in effect at any time prior to December 2,
10 1993, that is comparable to a most serious offense under this
11 subsection, or any federal or out-of-state conviction for an offense
12 that under the laws of this state would be a felony classified as a
13 most serious offense under this subsection;

14 (u)(i) A prior conviction for indecent liberties under RCW
15 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
16 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
17 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
18 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
19 until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
22 if: (A) The crime was committed against a child under the age of 14;
23 or (B) the relationship between the victim and perpetrator is
24 included in the definition of indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
26 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
27 1993, through July 27, 1997;

28 (v) Any out-of-state conviction for a felony offense with a
29 finding of sexual motivation if the minimum sentence imposed was 10
30 years or more; provided that the out-of-state felony offense must be
31 comparable to a felony offense under this title and Title 9A RCW and
32 the out-of-state definition of sexual motivation must be comparable
33 to the definition of sexual motivation contained in this section.

34 (33) "Nonviolent offense" means an offense which is not a violent
35 offense.

36 (34) "Offender" means a person who has committed a felony
37 established by state law and is 18 years of age or older or is less
38 than 18 years of age but whose case is under superior court
39 jurisdiction under RCW 13.04.030 or has been transferred by the
40 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. In addition, for the purpose of community custody
2 requirements under this chapter, "offender" also means a misdemeanor
3 or gross misdemeanor probationer ordered by a superior court to
4 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
5 supervised by the department pursuant to RCW 9.94A.501 and
6 9.94A.5011. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

8 (35) "Partial confinement" means confinement for no more than one
9 year in a facility or institution operated or utilized under contract
10 by the state or any other unit of government, or, if home detention,
11 electronic monitoring, or work crew has been ordered by the court or
12 home detention has been ordered by the department as part of the
13 parenting program or the graduated reentry program, in an approved
14 residence, for a substantial portion of each day with the balance of
15 the day spent in the community. Partial confinement includes work
16 release, home detention, work crew, electronic monitoring, and a
17 combination of work crew, electronic monitoring, and home detention.

18 (36) "Pattern of criminal street gang activity" means:

19 (a) The commission, attempt, conspiracy, or solicitation of, or
20 any prior juvenile adjudication of or adult conviction of, two or
21 more of the following criminal street gang-related offenses:

22 (i) Any "serious violent" felony offense as defined in this
23 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
24 Child 1 (RCW 9A.36.120);

25 (ii) Any "violent" offense as defined by this section, excluding
26 Assault of a Child 2 (RCW 9A.36.130);

27 (iii) Deliver or Possession with Intent to Deliver a Controlled
28 Substance (chapter 69.50 RCW);

29 (iv) Any violation of the firearms and dangerous weapon act
30 (chapter 9.41 RCW);

31 (v) Theft of a Firearm (RCW 9A.56.300);

32 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

33 (vii) Hate Crime (RCW 9A.36.080);

34 (viii) Harassment where a subsequent violation or deadly threat
35 is made (RCW 9A.46.020(2)(b));

36 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

37 (x) Any felony conviction by a person 18 years of age or older
38 with a special finding of involving a juvenile in a felony offense
39 under RCW 9.94A.833;

40 (xi) Residential Burglary (RCW 9A.52.025);

- 1 (xii) Burglary 2 (RCW 9A.52.030);
2 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
3 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
4 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
5 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
6 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
7 9A.56.070);
8 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
9 9A.56.075);
10 (xix) Extortion 1 (RCW 9A.56.120);
11 (xx) Extortion 2 (RCW 9A.56.130);
12 (xxi) Intimidating a Witness (RCW 9A.72.110);
13 (xxii) Tampering with a Witness (RCW 9A.72.120);
14 (xxiii) Reckless Endangerment (RCW 9A.36.050);
15 (xxiv) Coercion (RCW 9A.36.070);
16 (xxv) Harassment (RCW 9A.46.020); or
17 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

18 (b) That at least one of the offenses listed in (a) of this
19 subsection shall have occurred after July 1, 2008;

20 (c) That the most recent committed offense listed in (a) of this
21 subsection occurred within three years of a prior offense listed in
22 (a) of this subsection; and

23 (d) Of the offenses that were committed in (a) of this
24 subsection, the offenses occurred on separate occasions or were
25 committed by two or more persons.

26 (37) "Persistent offender" is an offender who:

27 (a) (i) Has been convicted in this state of any felony considered
28 a most serious offense; and

29 (ii) Has, before the commission of the offense under (a) of this
30 subsection, been convicted as an offender on at least two separate
31 occasions, whether in this state or elsewhere, of felonies that under
32 the laws of this state would be considered most serious offenses and
33 would be included in the offender score under RCW 9.94A.525; provided
34 that of the two or more previous convictions, at least one conviction
35 must have occurred before the commission of any of the other most
36 serious offenses for which the offender was previously convicted; or

37 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
38 of a child in the first degree, child molestation in the first
39 degree, rape in the second degree, rape of a child in the second
40 degree, or indecent liberties by forcible compulsion; (B) any of the

1 following offenses with a finding of sexual motivation: Murder in the
2 first degree, murder in the second degree, homicide by abuse,
3 kidnapping in the first degree, kidnapping in the second degree,
4 assault in the first degree, assault in the second degree, assault of
5 a child in the first degree, assault of a child in the second degree,
6 or burglary in the first degree; or (C) an attempt to commit any
7 crime listed in this subsection (37)(b)(i); and

8 (ii) Has, before the commission of the offense under (b)(i) of
9 this subsection, been convicted as an offender on at least one
10 occasion, whether in this state or elsewhere, of an offense listed in
11 (b)(i) of this subsection or any federal or out-of-state offense or
12 offense under prior Washington law that is comparable to the offenses
13 listed in (b)(i) of this subsection. A conviction for rape of a child
14 in the first degree constitutes a conviction under (b)(i) of this
15 subsection only when the offender was 16 years of age or older when
16 the offender committed the offense. A conviction for rape of a child
17 in the second degree constitutes a conviction under (b)(i) of this
18 subsection only when the offender was 18 years of age or older when
19 the offender committed the offense.

20 (38) "Predatory" means: (a) The perpetrator of the crime was a
21 stranger to the victim, as defined in this section; (b) the
22 perpetrator established or promoted a relationship with the victim
23 prior to the offense and the victimization of the victim was a
24 significant reason the perpetrator established or promoted the
25 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
26 volunteer, or other person in authority in any public or private
27 school and the victim was a student of the school under his or her
28 authority or supervision. For purposes of this subsection, "school"
29 does not include home-based instruction as defined in RCW
30 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
31 authority in any recreational activity and the victim was a
32 participant in the activity under his or her authority or
33 supervision; (iii) a pastor, elder, volunteer, or other person in
34 authority in any church or religious organization, and the victim was
35 a member or participant of the organization under his or her
36 authority; or (iv) a teacher, counselor, volunteer, or other person
37 in authority providing home-based instruction and the victim was a
38 student receiving home-based instruction while under his or her
39 authority or supervision. For purposes of this subsection: (A) "Home-
40 based instruction" has the same meaning as defined in RCW

1 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
2 in authority" does not include the parent or legal guardian of the
3 victim.

4 (39) "Private school" means a school regulated under chapter
5 28A.195 or 28A.205 RCW.

6 (40) "Public school" has the same meaning as in RCW 28A.150.010.

7 (41) "Recidivist offense" means a felony offense where a prior
8 conviction of the same offense or other specified offense is an
9 element of the crime including, but not limited to:

10 (a) Assault in the fourth degree where domestic violence is
11 pleaded and proven, RCW 9A.36.041(3);

12 (b) Cyber harassment, RCW 9A.90.120(2)(b)(i);

13 (c) Harassment, RCW 9A.46.020(2)(b)(i);

14 (d) Indecent exposure, RCW 9A.88.010(2)(c);

15 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

16 (f) Telephone harassment, RCW 9.61.230(2)(a); and

17 (g) Violation of a no-contact or protection order, RCW 7.105.450
18 or former RCW 26.50.110(5).

19 (42) "Repetitive domestic violence offense" means any:

20 (a)(i) Domestic violence assault that is not a felony offense
21 under RCW 9A.36.041;

22 (ii) Domestic violence violation of a no-contact order under
23 chapter 10.99 RCW that is not a felony offense;

24 (iii) Domestic violence violation of a protection order under
25 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
26 violation of a domestic violence protection order under chapter 7.105
27 RCW, that is not a felony offense;

28 (iv) Domestic violence harassment offense under RCW 9A.46.020
29 that is not a felony offense; or

30 (v) Domestic violence stalking offense under RCW 9A.46.110 that
31 is not a felony offense; or

32 (b) Any federal, out-of-state, tribal court, military, county, or
33 municipal conviction for an offense that under the laws of this state
34 would be classified as a repetitive domestic violence offense under
35 (a) of this subsection.

36 (43) "Restitution" means a specific sum of money ordered by the
37 sentencing court to be paid by the offender to the court over a
38 specified period of time as payment of damages. The sum may include
39 both public and private costs.

1 (44) "Risk assessment" means the application of the risk
2 instrument recommended to the department by the Washington state
3 institute for public policy as having the highest degree of
4 predictive accuracy for assessing an offender's risk of reoffense.

5 (45) "Serious traffic offense" means:

6 (a) (i) Nonfelony driving while under the influence of
7 intoxicating liquor or any drug (RCW 46.61.502) (~~(, nonfelony)~~);

8 (ii) Nonfelony actual physical control while under the influence
9 of intoxicating liquor or any drug (RCW 46.61.504) (~~(, reckless)~~);

10 (iii) Reckless driving (RCW 46.61.500) (~~(, or hit-and-run)~~);

11 (iv) Negligent driving if the conviction is the result of a
12 charge that was originally filed as a violation of RCW 46.61.502 or
13 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
14 46.61.522 while under the influence of intoxicating liquor or any
15 drug (RCW 46.61.5249);

16 (v) Reckless endangerment if the conviction is the result of a
17 charge that was originally filed as a violation of RCW 46.61.502 or
18 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
19 46.61.522 while under the influence of intoxicating liquor or any
20 drug (RCW 9A.36.050); or

21 (vi) Hit-and-run an attended vehicle (RCW 46.52.020(5)); or

22 (b) Any federal, out-of-state, county, or municipal conviction
23 for an offense that under the laws of this state would be classified
24 as a serious traffic offense under (a) of this subsection.

25 (46) "Serious violent offense" is a subcategory of violent
26 offense and means:

27 (a) (i) Murder in the first degree;

28 (ii) Homicide by abuse;

29 (iii) Murder in the second degree;

30 (iv) Manslaughter in the first degree;

31 (v) Assault in the first degree;

32 (vi) Kidnapping in the first degree;

33 (vii) Rape in the first degree;

34 (viii) Assault of a child in the first degree; or

35 (ix) An attempt, criminal solicitation, or criminal conspiracy to
36 commit one of these felonies; or

37 (b) Any federal or out-of-state conviction for an offense that
38 under the laws of this state would be a felony classified as a
39 serious violent offense under (a) of this subsection.

40 (47) "Sex offense" means:

1 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
2 than RCW 9A.44.132;

3 (ii) A violation of RCW 9A.64.020;

4 (iii) A felony that is a violation of chapter 9.68A RCW other
5 than RCW 9.68A.080;

6 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
7 attempt, criminal solicitation, or criminal conspiracy to commit such
8 crimes; or

9 (v) A felony violation of RCW 9A.44.132(1) (failure to register
10 as a sex offender) if the person has been convicted of violating RCW
11 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
12 prior to June 10, 2010, on at least one prior occasion;

13 (b) Any conviction for a felony offense in effect at any time
14 prior to July 1, 1976, that is comparable to a felony classified as a
15 sex offense in (a) of this subsection;

16 (c) A felony with a finding of sexual motivation under RCW
17 9.94A.835 or 13.40.135; or

18 (d) Any federal or out-of-state conviction for an offense that
19 under the laws of this state would be a felony classified as a sex
20 offense under (a) of this subsection.

21 (48) "Sexual motivation" means that one of the purposes for which
22 the defendant committed the crime was for the purpose of his or her
23 sexual gratification.

24 (49) "Standard sentence range" means the sentencing court's
25 discretionary range in imposing a nonappealable sentence.

26 (50) "Statutory maximum sentence" means the maximum length of
27 time for which an offender may be confined as punishment for a crime
28 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
29 defining the crime, or other statute defining the maximum penalty for
30 a crime.

31 (51) "Stranger" means that the victim did not know the offender
32 24 hours before the offense.

33 (52) "Total confinement" means confinement inside the physical
34 boundaries of a facility or institution operated or utilized under
35 contract by the state or any other unit of government for 24 hours a
36 day, or pursuant to RCW 72.64.050 and 72.64.060.

37 (53) "Transition training" means written and verbal instructions
38 and assistance provided by the department to the offender during the
39 two weeks prior to the offender's successful completion of the work
40 ethic camp program. The transition training shall include

1 instructions in the offender's requirements and obligations during
2 the offender's period of community custody.

3 (54) "Victim" means any person who has sustained emotional,
4 psychological, physical, or financial injury to person or property as
5 a direct result of the crime charged.

6 (55) "Victim of domestic violence" means an intimate partner or
7 household member who has been subjected to the infliction of physical
8 harm or sexual and psychological abuse by an intimate partner or
9 household member as part of a pattern of assaultive, coercive, and
10 controlling behaviors directed at achieving compliance from or
11 control over that intimate partner or household member. Domestic
12 violence includes, but is not limited to, the offenses listed in RCW
13 10.99.020 and 26.50.010 committed by an intimate partner or household
14 member against a victim who is an intimate partner or household
15 member.

16 (56) "Victim of sex trafficking, prostitution, or commercial
17 sexual abuse of a minor" means a person who has been forced or
18 coerced to perform a commercial sex act including, but not limited
19 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
20 9.68A.101, and the trafficking victims protection act of 2000, 22
21 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
22 commercial sex act when they were less than 18 years of age including
23 but not limited to the offenses defined in chapter 9.68A RCW.

24 (57) "Victim of sexual assault" means any person who is a victim
25 of a sexual assault offense, nonconsensual sexual conduct, or
26 nonconsensual sexual penetration and as a result suffers physical,
27 emotional, financial, or psychological impacts. Sexual assault
28 offenses include, but are not limited to, the offenses defined in
29 chapter 9A.44 RCW.

30 (58) "Violent offense" means:

31 (a) Any of the following felonies:

32 (i) Any felony defined under any law as a class A felony or an
33 attempt to commit a class A felony;

34 (ii) Criminal solicitation of or criminal conspiracy to commit a
35 class A felony;

36 (iii) Manslaughter in the first degree;

37 (iv) Manslaughter in the second degree;

38 (v) Indecent liberties if committed by forcible compulsion;

39 (vi) Kidnapping in the second degree;

40 (vii) Arson in the second degree;

1 (viii) Assault in the second degree;

2 (ix) Assault of a child in the second degree;

3 (x) Extortion in the first degree;

4 (xi) Robbery in the second degree;

5 (xii) Drive-by shooting;

6 (xiii) Vehicular assault, when caused by the operation or driving
7 of a vehicle by a person while under the influence of intoxicating
8 liquor or any drug or by the operation or driving of a vehicle in a
9 reckless manner; and

10 (xiv) Vehicular homicide, when proximately caused by the driving
11 of any vehicle by any person while under the influence of
12 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
13 the operation of any vehicle in a reckless manner;

14 (b) Any conviction for a felony offense in effect at any time
15 prior to July 1, 1976, that is comparable to a felony classified as a
16 violent offense in (a) of this subsection; and

17 (c) Any federal or out-of-state conviction for an offense that
18 under the laws of this state would be a felony classified as a
19 violent offense under (a) or (b) of this subsection.

20 (59) "Work crew" means a program of partial confinement
21 consisting of civic improvement tasks for the benefit of the
22 community that complies with RCW 9.94A.725.

23 (60) "Work ethic camp" means an alternative incarceration program
24 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
25 the cost of corrections by requiring offenders to complete a
26 comprehensive array of real-world job and vocational experiences,
27 character-building work ethics training, life management skills
28 development, substance abuse rehabilitation, counseling, literacy
29 training, and basic adult education.

30 (61) "Work release" means a program of partial confinement
31 available to offenders who are employed or engaged as a student in a
32 regular course of study at school.

33 **Sec. 2.** RCW 10.05.060 and 2009 c 135 s 1 are each amended to
34 read as follows:

35 If the report recommends treatment, the court shall examine the
36 treatment plan. If it approves the plan and the petitioner agrees to
37 comply with its terms and conditions and agrees to pay the cost
38 thereof, if able to do so, or arrange for the treatment, an entry
39 shall be made upon the person's court docket showing that the person

1 has been accepted for deferred prosecution. A copy of the treatment
2 plan shall be filed with the court. If the charge be one that an
3 abstract of the docket showing the charge, the date of the violation
4 for which the charge was made, and the date of petitioner's
5 acceptance is required to be sent to the department of licensing, an
6 abstract shall be sent, and the department of licensing shall make an
7 entry of the charge and of the petitioner's acceptance for deferred
8 prosecution on the department's driving record of the petitioner. The
9 entry is not a conviction for purposes of Title 46 RCW. Upon receipt
10 of the abstract of the docket, the department shall issue notice that
11 45 days after receipt, the petitioner must apply for a probationary
12 license in accordance with RCW 46.20.355, and the petitioner's
13 driver's license shall be on probationary status for five years from
14 the date of the violation that gave rise to the charge. The
15 department shall maintain the record (~~for ten years from date of~~
16 ~~entry of the order granting deferred prosecution~~) consistent with
17 the requirements of RCW 46.01.260.

18 **Sec. 3.** RCW 46.20.355 and 2020 c 330 s 8 are each amended to
19 read as follows:

20 (1) Upon receipt of an abstract indicating a deferred prosecution
21 has been granted under RCW 10.05.060, or upon receipt of a notice of
22 conviction of RCW 46.61.502 or 46.61.504, the department of licensing
23 shall issue notice that 45 days after receipt, the person must apply
24 for a probationary license, and order the person to surrender any
25 nonprobationary Washington state driver's license that may be in his
26 or her possession. The department shall revoke the license, permit,
27 or privilege to drive of any person who fails to surrender it as
28 required by this section for one year, unless the license has been
29 previously surrendered to the department, a law enforcement officer,
30 or a court, or the person has completed an affidavit of lost, stolen,
31 destroyed, or previously surrendered license, such revocation to take
32 effect (~~(thirty)~~) 30 days after notice is given of the requirement
33 for license surrender.

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

38 (3) Following receipt of an abstract indicating a deferred
39 prosecution has been granted under RCW 10.05.060, or upon

1 reinstatement or reissuance of a driver's license suspended or
2 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,
3 the department shall require the person to obtain a probationary
4 license in order to operate a motor vehicle in the state of
5 Washington, except as otherwise exempt under RCW 46.20.025. The
6 department shall not issue the probationary license unless the person
7 is otherwise qualified for licensing, and the person must renew the
8 probationary license on the same cycle as the person's regular
9 license would have been renewed until the expiration of the five-year
10 probationary status period imposed under subsection (2) of this
11 section.

12 (4) If a person is eligible for full credit under RCW
13 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued
14 under RCW 46.20.245, has completed the requirements under RCW
15 46.20.311 and paid the fee under subsection (5) of this section, the
16 department shall issue a probationary license on the date specified
17 in the notice with no further action required of the person.

18 (5) For each original issue or renewal of a probationary license
19 under this section, the department shall charge a fee of (~~fifty~~
20 ~~dollars~~) \$50 in addition to any other licensing fees required.
21 Except for when renewing a probationary license, the department shall
22 waive the requirement to obtain an additional probationary license
23 and the (~~fifty-dollar~~) \$50 fee if the person has a probationary
24 license in his or her possession at the time a new probationary
25 license is required.

26 (6) A probationary license shall enable the department and law
27 enforcement personnel to determine that the person is on probationary
28 status. The fact that a person's driving privilege is in probationary
29 status or that the person has been issued a probationary license
30 shall not be a part of the person's record that is available to
31 insurance companies.

32 **Sec. 4.** RCW 46.20.385 and 2020 c 330 s 9 are each amended to
33 read as follows:

34 (1)(a) Any person licensed under this chapter or who has a valid
35 driver's license from another state, who is convicted of: (i) A
36 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
37 out-of-state statute or ordinance, or (ii) a violation of RCW
38 46.61.520(1)(a) or an equivalent local or out-of-state statute or
39 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)

1 (b) or (c) if the conviction is the result of a charge that was
2 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
3 46.61.522(1)(b) or an equivalent local or out-of-state statute or
4 ordinance, or (v) RCW 46.61.522(1)(a) or (c) if the conviction is
5 the result of a charge that was originally filed as a violation of
6 RCW 46.61.522(1)(b) committed while under the influence of
7 intoxicating liquor or any drug, or (vi) who has had or will have his
8 or her license suspended, revoked, or denied under RCW 46.20.3101, or
9 has had his or her license suspended, revoked, or denied under RCW
10 46.61.5055(11)(c)(i), or who is otherwise permitted under subsection
11 (8) of this section, may submit to the department an application for
12 an ignition interlock driver's license. The department, upon receipt
13 of the prescribed fee and upon determining that the petitioner is
14 eligible to receive the license, may issue an ignition interlock
15 driver's license.

16 (b) A person may apply for an ignition interlock driver's license
17 anytime, including immediately after receiving the notices under RCW
18 46.20.308 or after his or her license is suspended, revoked, or
19 denied.

20 (c) An applicant under this subsection shall provide proof to the
21 satisfaction of the department that a functioning ignition interlock
22 device has been installed on all vehicles operated by the person.

23 (i) The department shall require the person to maintain the
24 device on all vehicles operated by the person and shall restrict the
25 person to operating only vehicles equipped with the device, for the
26 remainder of the period of suspension, revocation, or denial, unless
27 otherwise permitted under RCW 46.20.720(6).

28 (ii) Subject to any periodic renewal requirements established by
29 the department under this section and subject to any applicable
30 compliance requirements under this chapter or other law, an ignition
31 interlock driver's license granted upon a suspension or revocation
32 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
33 portion of any concurrent or consecutive suspension or revocation
34 that may be imposed as the result of administrative action and
35 criminal conviction arising out of the same incident.

36 (2) An applicant for an ignition interlock driver's license who
37 qualifies under subsection (1) of this section is eligible to receive
38 a license only if the applicant files satisfactory proof of financial
39 responsibility under chapter 46.29 RCW.

1 (3) Upon receipt of evidence that a holder of an ignition
2 interlock driver's license granted under this subsection no longer
3 has a functioning ignition interlock device installed on all vehicles
4 operated by the driver, the director shall give written notice by
5 first-class mail to the driver that the ignition interlock driver's
6 license shall be canceled. If at any time before the cancellation
7 goes into effect the driver submits evidence that a functioning
8 ignition interlock device has been installed on all vehicles operated
9 by the driver, the cancellation shall be stayed. If the cancellation
10 becomes effective, the driver may obtain, at no additional charge, a
11 new ignition interlock driver's license upon submittal of evidence
12 that a functioning ignition interlock device has been installed on
13 all vehicles operated by the driver.

14 (4) A person aggrieved by the decision of the department on the
15 application for an ignition interlock driver's license may request a
16 hearing as provided by rule of the department.

17 (5) The director shall cancel an ignition interlock driver's
18 license after receiving notice that the holder thereof has been
19 convicted of operating a motor vehicle in violation of its
20 restrictions, no longer meets the eligibility requirements, or has
21 been convicted of or found to have committed a separate offense or
22 any other act or omission that under this chapter would warrant
23 suspension or revocation of a regular driver's license. The
24 department must give notice of the cancellation as provided under RCW
25 46.20.245. A person whose ignition interlock driver's license has
26 been canceled under this section may reapply for a new ignition
27 interlock driver's license if he or she is otherwise qualified under
28 this section and pays the fee required under RCW 46.20.380.

29 (6) (a) Unless costs are waived by the ignition interlock company
30 or the person is indigent under RCW 10.101.010, the applicant shall
31 pay the cost of installing, removing, and leasing the ignition
32 interlock device and shall pay an additional fee of twenty-one
33 dollars per month. Payments shall be made directly to the ignition
34 interlock company. The company shall remit the additional fee to the
35 department, except that the company may retain (~~twenty-five~~) 25
36 cents per month of the additional fee to cover the expenses
37 associated with administering the fee.

38 (b) The department shall deposit the proceeds of the twenty-one
39 dollar fee into the ignition interlock device revolving account.
40 Expenditures from the account may be used only to administer and

1 operate the ignition interlock device revolving account program. The
2 department shall adopt rules to provide monetary assistance according
3 to greatest need and when funds are available.

4 (7) The department shall adopt rules to implement ignition
5 interlock licensing. The department shall consult with the
6 administrative office of the courts, the state patrol, the Washington
7 association of sheriffs and police chiefs, ignition interlock
8 companies, and any other organization or entity the department deems
9 appropriate.

10 (8) (a) Any person licensed under this chapter who is convicted of
11 a violation of RCW 46.61.500 when the charge was originally filed as
12 a violation of RCW 46.61.502 or 46.61.504, or an equivalent local
13 ordinance, may submit to the department an application for an
14 ignition interlock driver's license under this section.

15 (b) A person who does not have any driver's license under this
16 chapter, but who would otherwise be eligible under this section to
17 apply for an ignition interlock license, may submit to the department
18 an application for an ignition interlock license. The department may
19 require the person to take any driver's licensing examination under
20 this chapter and may require the person to also apply and qualify for
21 a temporary restricted driver's license under RCW 46.20.391.

22 **Sec. 5.** RCW 46.20.720 and 2020 c 330 s 10 are each amended to
23 read as follows:

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

27 (a) **Pretrial release.** Upon receipt of notice from a court that an
28 ignition interlock device restriction has been imposed under RCW
29 10.21.055;

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

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

35 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
36 or

37 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
38 if the person would be required under RCW 46.61.5249(4) or

1 46.61.500(3) (a) or (b) to install an ignition interlock device on
2 all vehicles operated by the person in the event of a conviction;

3 (d) **Post conviction.** After any applicable period of mandatory
4 suspension, revocation, or denial of driving privileges, or upon
5 fulfillment of day-for-day credit under RCW 46.61.5055(9)(b)(ii) for
6 a suspension, revocation, or denial of driving privileges:

7 (i) Due to a conviction of a violation of RCW 46.61.502 or
8 46.61.504 or an equivalent local or out-of-state statute or
9 ordinance; or

10 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
11 46.61.500 or an equivalent local ordinance if the person is required
12 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
13 ignition interlock device on all vehicles operated by the person; or

14 (e) **Court order.** Upon receipt of an order by a court having
15 jurisdiction that a person charged or convicted of any offense
16 involving the use, consumption, or possession of alcohol while
17 operating a motor vehicle may drive only a motor vehicle equipped
18 with a functioning ignition interlock. The court shall establish a
19 specific alcohol set point at which the ignition interlock will
20 prevent the vehicle from being started. The court shall also
21 establish the period of time for which ignition interlock use will be
22 required.

23 (2) **Alcohol set point.** Unless otherwise specified by the court
24 for a restriction imposed under subsection (1)(e) of this section,
25 the ignition interlock device shall have an alcohol set point that
26 prevents the motor vehicle from being started when the breath sample
27 provided has an alcohol concentration of 0.020 or more.

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

29 (a) Subsection (1)(a) of this section shall remain in effect
30 until:

31 (i) The court has authorized the removal of the device under RCW
32 10.21.055; or

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

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

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

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

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

5 (iii) For a person who has previously been restricted under
6 (c) (ii) of this subsection, a period of (~~ten~~) 10 years.

7 The restriction of a person who is convicted of a violation of
8 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who
9 committed the offense while one or more passengers under the age of
10 (~~sixteen~~) 16 were in the vehicle shall be extended for an
11 additional period as required by RCW 46.61.5055(6) (a).

12 For purposes of determining a period of restriction for a person
13 restricted pursuant to a conviction under (d) of this subsection, a
14 restriction based on a deferred prosecution under subsection (1) (c)
15 of this section arising out of the same incident is not considered a
16 prior restriction for purposes of this subsection.

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

19 (e) The period of restriction under (c) or (d) of this subsection
20 shall be extended by (~~one hundred eighty~~) 180 days whenever the
21 department receives notice that the restricted person has been
22 convicted under RCW 46.20.740 or 46.20.750. If the period of
23 restriction under (c) or (d) of this subsection has been fulfilled
24 and cannot be extended, the department must add a new (~~one hundred~~
25 ~~eighty-day~~) 180-day restriction that is imposed from the date of
26 conviction and is subject to the requirements for removal under
27 subsection (4) of this section.

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

30 (g) The period of restriction under (c) and (d) of this
31 subsection based on incidents occurring on or after June 9, 2016,
32 must be tolled for any period in which the person does not have an
33 ignition interlock device installed on a vehicle owned or operated by
34 the person unless the person receives a determination from the
35 department that the person is unable to operate an ignition interlock
36 device due to a physical disability. For all drivers restricted under
37 this section with incidents and restriction start dates prior to June
38 9, 2016, a driver may apply to waive the restriction by applying for
39 a determination from the department that the person is unable to
40 operate an ignition interlock device due to a physical disability.

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

7 (4) **Requirements for removal.** A restriction imposed under
8 subsection (1)(c) or (d) of this section shall remain in effect until
9 the department receives a declaration from the person's ignition
10 interlock device vendor, in a form provided or approved by the
11 department, certifying the following:

12 (a) That there have been none of the following incidents in the
13 (~~one hundred eighty~~) 180 consecutive days prior to the date of
14 release:

15 (i) Any attempt to start the vehicle with a breath alcohol
16 concentration of 0.04 or more unless a subsequent test performed
17 within (~~ten~~) 10 minutes registers a breath alcohol concentration
18 lower than 0.04 and the digital image confirms the same person
19 provided both samples;

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

23 (iii) Failure to pass any random retest with a breath alcohol
24 concentration of lower than 0.020 unless a subsequent test performed
25 within (~~ten~~) 10 minutes registers a breath alcohol concentration
26 lower than 0.020, and the digital image confirms the same person
27 provided both samples;

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

31 (v) Removal of the ignition interlock device by a person other
32 than an ignition interlock technician certified by the Washington
33 state patrol; and

34 (b) That the ignition interlock device was inspected at the
35 conclusion of the (~~one hundred eighty-day~~) 180-day period by an
36 ignition interlock technician certified by the Washington state
37 patrol and no evidence was found that the device was tampered with in
38 the manner described in RCW 46.20.750.

39 (5) **Day-for-day credit.** (a) The time period during which a person
40 has an ignition interlock device installed in order to meet the

1 requirements of subsection (1)(b) of this section shall apply on a
2 day-for-day basis toward satisfying the period of time the ignition
3 interlock device restriction is imposed under subsection (1)(c) or
4 (d) of this section arising out of the same incident.

5 (b) The department must also give the person a day-for-day credit
6 for any time period, beginning from the date of the incident, during
7 which the person kept an ignition interlock device installed on all
8 vehicles the person operates, other than those subject to the
9 employer exemption under subsection (6) of this section.

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

17 (6) **Employer exemption.** (a) Except as provided in (b) of this
18 subsection, the installation of an ignition interlock device is not
19 necessary on vehicles owned, leased, or rented by a person's employer
20 and on those vehicles whose care and/or maintenance is the temporary
21 responsibility of the employer, and driven at the direction of a
22 person's employer as a requirement of employment during working
23 hours. The person must provide the department with a declaration
24 pursuant to chapter 5.50 RCW from his or her employer stating that
25 the person's employment requires the person to operate a vehicle
26 owned by the employer or other persons during working hours. When the
27 department receives a declaration under this subsection, it shall
28 attach or imprint a notation on the person's driving record stating
29 that the employer exemption applies.

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

33 (c) The employer exemption does not apply to a person who is
34 self-employed unless the person's vehicle is used exclusively for the
35 person's employment.

36 (7) **Ignition interlock device revolving account.** In addition to
37 any other costs associated with the use of an ignition interlock
38 device imposed on the person restricted under this section, the
39 person shall pay an additional fee of (~~(twenty-one dollars)~~) \$21 per
40 month. Payments must be made directly to the ignition interlock

1 company. The company shall remit the additional fee to the department
2 to be deposited into the ignition interlock device revolving account,
3 except that the company may retain (~~twenty-five~~) 25 cents per month
4 of the additional fee to cover the expenses associated with
5 administering the fee. The department may waive the monthly fee if
6 the person is indigent under RCW 10.101.010.

7 (8) **Foreign jurisdiction.** For a person restricted under this
8 section who is residing outside of the state of Washington, the
9 department may accept verification of installation of an ignition
10 interlock device by an ignition interlock company authorized to do
11 business in the jurisdiction in which the person resides, provided
12 the device meets any applicable requirements of that jurisdiction.
13 The department may waive one or more requirements for removal under
14 subsection (4) of this section if compliance with the requirement or
15 requirements would be impractical in the case of a person residing in
16 another jurisdiction, provided the person is in compliance with any
17 equivalent requirement of that jurisdiction. The department may waive
18 the monthly fee required by subsection (7) of this section if
19 collection of the fee would be impractical in the case of a person
20 residing in another jurisdiction.

21 **Sec. 6.** RCW 46.20.740 and 2020 c 330 s 11 are each amended to
22 read as follows:

23 (1) The department shall attach or imprint a notation on the
24 driving record of any person restricted under RCW 46.20.720,
25 46.61.5055, or 10.05.140 stating that the person may operate only a
26 motor vehicle equipped with a functioning ignition interlock device.
27 The department shall determine the person's eligibility for licensing
28 based upon written verification by a company doing business in the
29 state that it has installed the required device on a vehicle owned or
30 operated by the person seeking reinstatement. If, based upon
31 notification from the interlock provider or otherwise, the department
32 determines that an ignition interlock required under this section is
33 no longer installed or functioning as required, the department shall
34 suspend the person's license or privilege to drive. Whenever the
35 license or driving privilege of any person is suspended or revoked as
36 a result of noncompliance with an ignition interlock requirement, the
37 suspension shall remain in effect until the person provides notice
38 issued by a company doing business in the state that a vehicle owned

1 or operated by the person is equipped with a functioning ignition
2 interlock device.

3 (2) It is a gross misdemeanor for a person with such a notation
4 on his or her driving record to operate a motor vehicle that is not
5 so equipped, unless the notation resulted from a restriction imposed
6 as a condition of release and the restriction has been released by
7 the court prior to driving. Any time a person is convicted under this
8 section, the court shall immediately notify the department for
9 purposes of RCW 46.20.720(3)(e). It is an affirmative defense, which
10 the defendant must prove by a preponderance of the evidence, that the
11 employer exemption in RCW 46.20.720(6) applies. The court shall not
12 admit evidence of this defense unless the defendant notifies the
13 prosecution prior to the omnibus or pretrial hearing in the case of
14 the defendant's intent to assert the affirmative defense.

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

18 **Sec. 7.** RCW 46.52.130 and 2022 c 182 s 206 are each amended to
19 read as follows:

20 Upon a proper request, the department may only furnish
21 information contained in an abstract of a person's driving record as
22 permitted under this section.

23 (1) **Contents of abstract of driving record.** An abstract of a
24 person's driving record, whenever possible, must include:

25 (a) An enumeration of motor vehicle accidents in which the person
26 was driving, including:

27 (i) The total number of vehicles involved;

28 (ii) Whether the vehicles were legally parked or moving;

29 (iii) Whether the vehicles were occupied at the time of the
30 accident; and

31 (iv) Whether the accident resulted in a fatality;

32 (b) Any reported convictions, forfeitures of bail, or findings
33 that an infraction was committed based upon a violation of any motor
34 vehicle law;

35 (c) The status of the person's driving privilege in this state;
36 and

37 (d) Any reports of failure to appear in response to a traffic
38 citation or failure to respond to a notice of infraction served upon
39 the named individual by an arresting officer.

1 (2) **Release of abstract of driving record.** Unless otherwise
2 required in this section, the release of an abstract does not require
3 a signed statement by the subject of the abstract. An abstract of a
4 person's driving record may be furnished to the following persons or
5 entities:

6 (a) **Named individuals.** (i) An abstract of the full driving record
7 maintained by the department may be furnished to the individual named
8 in the abstract.

9 (ii) Nothing in this section prevents a court from providing a
10 copy of the driver's abstract to the individual named in the abstract
11 or that named individual's attorney, provided that the named
12 individual has a pending or open infraction or criminal case in that
13 court. A pending case includes criminal cases that have not reached a
14 disposition by plea, stipulation, trial, or amended charge. An open
15 infraction or criminal case includes cases on probation, payment
16 agreement or subject to, or in collections. A probation clerk or
17 probation officer employed by the court may also provide a copy of
18 the driver's abstract to a treatment agency in accordance with (f) of
19 this subsection. Courts may charge a reasonable fee for the
20 production and copying of the abstract for the individual, unless the
21 person is indigent as defined in RCW 10.101.010.

22 (b) **Employers or prospective employers.** (i) An abstract of the
23 full driving record maintained by the department may be furnished to
24 an employer or prospective employer or agents acting on behalf of an
25 employer or prospective employer of the named individual for purposes
26 related to driving by the individual as a condition of employment or
27 otherwise at the direction of the employer.

28 (ii) The department may provide employers or their agents a
29 three-year insurance carrier driving record of existing employees
30 only for the purposes of sharing the driving record with its
31 insurance carrier for underwriting. Employers may not provide the
32 employees' full driving records to its insurance carrier.

33 (iii) An abstract of the full driving record maintained by the
34 department may be furnished to an employer or prospective employer or
35 the agent(s) acting on behalf of an employer or prospective employer
36 of the named individual for purposes unrelated to driving by the
37 individual when a driving record is required by federal or state law,
38 or the employee or prospective employee will be handling heavy
39 equipment or machinery.

1 (iv) Release of an abstract of the driving record of an employee
2 or prospective employee requires a statement signed by: (A) The
3 employee or prospective employee that authorizes the release of the
4 record; and (B) the employer attesting that the information is
5 necessary for employment purposes related to driving by the
6 individual as a condition of employment or otherwise at the direction
7 of the employer. If the employer or prospective employer authorizes
8 agents to obtain this information on their behalf, this must be noted
9 in the statement. The statement must also note that any information
10 contained in the abstract related to an adjudication that is subject
11 to a court order sealing the juvenile record of an employee or
12 prospective employee may not be used by the employer or prospective
13 employer, or an agent authorized to obtain this information on their
14 behalf, unless required by federal regulation or law. The employer or
15 prospective employer must afford the employee or prospective employee
16 an opportunity to demonstrate that an adjudication contained in the
17 abstract is subject to a court order sealing the juvenile record.

18 (v) Upon request of the person named in the abstract provided
19 under this subsection, and upon that same person furnishing copies of
20 court records ruling that the person was not at fault in a motor
21 vehicle accident, the department must indicate on any abstract
22 provided under this subsection that the person was not at fault in
23 the motor vehicle accident.

24 (vi) No employer or prospective employer, nor any agents of an
25 employer or prospective employer, may use information contained in
26 the abstract related to an adjudication that is subject to a court
27 order sealing the juvenile record of an employee or prospective
28 employee for any purpose unless required by federal regulation or
29 law. The employee or prospective employee must furnish a copy of the
30 court order sealing the juvenile record to the employer or
31 prospective employer, or the agents of the employer or prospective
32 employer, as may be required to ensure the application of this
33 subsection.

34 (c) **Volunteer organizations.** (i) An abstract of the full driving
35 record maintained by the department may be furnished to a volunteer
36 organization or an agent for a volunteer organization for which the
37 named individual has submitted an application for a position that
38 would require driving by the individual at the direction of the
39 volunteer organization.

1 (ii) Release of an abstract of the driving record of a
2 prospective volunteer requires a statement signed by: (A) The
3 prospective volunteer that authorizes the release of the record; and
4 (B) the volunteer organization attesting that the information is
5 necessary for purposes related to driving by the individual at the
6 direction of the volunteer organization. If the volunteer
7 organization authorizes an agent to obtain this information on their
8 behalf, this must be noted in the statement.

9 (d) **Transit authorities.** An abstract of the full driving record
10 maintained by the department may be furnished to an employee or
11 agents of a transit authority checking prospective or existing
12 volunteer vanpool drivers for insurance and risk management needs.

13 (e) **Insurance carriers.** (i) An abstract of the driving record
14 maintained by the department covering the period of not more than the
15 last three years may be furnished to an insurance company or its
16 agents:

17 (A) That has motor vehicle or life insurance in effect covering
18 the named individual;

19 (B) To which the named individual has applied; or

20 (C) That has insurance in effect covering the employer or a
21 prospective employer of the named individual.

22 (ii) The abstract provided to the insurance company must:

23 (A) Not contain any information related to actions committed by
24 law enforcement officers or firefighters, as both terms are defined
25 in RCW 41.26.030, or by Washington state patrol officers, while
26 driving official vehicles in the performance of their occupational
27 duty, or by registered tow truck operators as defined in RCW
28 46.55.010 in the performance of their occupational duties while at
29 the scene of a roadside impound or recovery so long as they are not
30 issued a citation. This does not apply to any situation where the
31 vehicle was used in the commission of a misdemeanor or felony;

32 (B) Include convictions under RCW 46.61.5249 and 46.61.525,
33 except that the abstract must report the convictions only as
34 negligent driving without reference to whether they are for first or
35 second degree negligent driving; and

36 (C) Exclude any deferred prosecution under RCW 10.05.060, except
37 that if a person is removed from a deferred prosecution under RCW
38 10.05.090, the abstract must show the deferred prosecution as well as
39 the removal.

1 (iii) Any policy of insurance may not be canceled, nonrenewed,
2 denied, or have the rate increased on the basis of information
3 regarding an accident included in the abstract of a driving record,
4 unless the policyholder was determined to be at fault.

5 (iv) Any insurance company or its agents, for underwriting
6 purposes relating to the operation of commercial motor vehicles, may
7 not use any information contained in the abstract relative to any
8 person's operation of motor vehicles while not engaged in such
9 employment. Any insurance company or its agents, for underwriting
10 purposes relating to the operation of noncommercial motor vehicles,
11 may not use any information contained in the abstract relative to any
12 person's operation of commercial motor vehicles. For the purposes of
13 this subsection, "commercial motor vehicle" has the same meaning as
14 in RCW 46.25.010(6).

15 (f) **Alcohol/drug assessment or treatment agencies.** An abstract of
16 the full driving record maintained by the department (~~(covering the~~
17 ~~period of not more than the last five years)~~) may be furnished to an
18 alcohol/drug assessment or treatment agency approved by the
19 department of health to which the named individual has applied or
20 been assigned for evaluation or treatment, for purposes of assisting
21 employees in making a determination as to what level of treatment, if
22 any, is appropriate, (~~(except that)~~) and the abstract must:

23 (i) Also include records of alcohol-related offenses, as defined
24 in RCW 46.01.260(2) (~~(, covering a period of not more than the last~~
25 ~~ten years)~~); and

26 (ii) Indicate whether an alcohol-related offense was originally
27 charged as a violation of either RCW 46.61.502 or 46.61.504.

28 (g) **Attorneys—City attorneys, county prosecuting attorneys, and**
29 **named individual's attorney of record.** An abstract of the full
30 driving record maintained by the department, including whether a
31 recorded violation is an alcohol-related offense, as defined in RCW
32 46.01.260(2), that was originally charged as a violation of either
33 RCW 46.61.502 or 46.61.504, may be furnished to city attorneys,
34 county prosecuting attorneys, or the named individual's attorney of
35 record. City attorneys, county prosecuting attorneys, or the named
36 individual's attorney of record may provide the driving record to
37 alcohol/drug assessment or treatment agencies approved by the
38 department of social and health services to which the named
39 individual has applied or been assigned for evaluation or treatment.

1 (h) **State colleges, universities, or agencies, or units of local**
2 **government.** An abstract of the full driving record maintained by the
3 department may be furnished to (i) state colleges, universities, or
4 agencies for employment and risk management purposes or (ii) units of
5 local government authorized to self-insure under RCW 48.62.031, or
6 their agents, for employment and risk management purposes. "Unit of
7 local government" includes an insurance pool established under RCW
8 48.62.031.

9 (i) **Superintendent of public instruction.** (i) An abstract of the
10 full driving record maintained by the department may be furnished to
11 the superintendent of public instruction for review of public school
12 bus driver records. The superintendent or superintendent's designee
13 may discuss information on the driving record with an authorized
14 representative of the employing school district for employment and
15 risk management purposes.

16 (ii) The superintendent of public instruction is exempt from
17 paying the fees related to the reviewing of records and the fee
18 required in subsection (5) of this section.

19 (j) **State and federal agencies.** An abstract of the driving record
20 maintained by the department may be furnished to state and federal
21 agencies, or their agents, in carrying out its functions.

22 (k) **Transportation network companies.** An abstract of the full
23 driving record maintained by the department may be furnished to a
24 transportation network company or its agents acting on its behalf of
25 the named individual for purposes related to driving by the
26 individual as a condition of being a contracted driver.

27 (l) **Research.** (i) The department may furnish driving record data
28 to state agencies and bona fide scientific research organizations.
29 The department may require review and approval by an institutional
30 review board. For the purposes of this subsection, "research" means a
31 planned and systematic sociological, psychological, epidemiological,
32 biomedical, or other scientific investigation carried out by a state
33 agency, or by a scientific research professional associated with a
34 bona fide scientific research organization with an objective to
35 contribute to scientific knowledge, the solution of social and health
36 problems, or the evaluation of public benefit and service programs.
37 This definition excludes methods of record analysis and data
38 collection that are subjective, do not permit replication, and are
39 not designed to yield reliable and valid results.

1 (ii) The state agency, or a scientific research professional
2 associated with a bona fide scientific research organization, are
3 exempt from paying the fees related to the reviewing of records and
4 the fee required in subsection (5) of this section. However, the
5 department may charge a cost-recovery fee for the actual cost of
6 providing the data.

7 (3) **Reviewing of driving records.** (a) In addition to the methods
8 described herein, the director may enter into a contractual agreement
9 for the purpose of reviewing the driving records of existing
10 employees for changes to the record during specified periods of time.
11 The department shall establish a fee for this service, which must be
12 deposited in the highway safety fund. The fee for this service must
13 be set at a level that does not result in a net revenue loss to the
14 state. Any information provided under this subsection must be treated
15 in the same manner and is subject to the same restrictions as driving
16 record abstracts.

17 (b) The department may provide reviewing services to the
18 following entities:

19 (i) Employers for existing employees, or their agents;

20 (ii) Transit authorities for current vanpool drivers, or their
21 agents;

22 (iii) Insurance carriers for current policyholders, or their
23 agents;

24 (iv) State colleges, universities, or agencies, or units of local
25 government, or their agents;

26 (v) The office of the superintendent of public instruction for
27 school bus drivers statewide; and

28 (vi) Transportation network companies, or their agents.

29 (4) **Release to third parties prohibited.** (a) Any person or entity
30 receiving an abstract of a person's driving record under subsection
31 (2)(b) through (1) of this section shall use the abstract exclusively
32 for his, her, or its own purposes or as otherwise expressly permitted
33 under this section, and shall not divulge any information contained
34 in the abstract to a third party.

35 (b) The following release of records to third parties are hereby
36 authorized:

37 (i) Employers may divulge driving records to regulatory bodies,
38 as defined by the department by rule, such as the United States
39 department of transportation and the federal motor carrier safety
40 administration.

1 (ii) Employers may divulge a three-year driving record to their
2 insurance carrier for underwriting purposes.

3 (iii) Employers may divulge driving records to contracted motor
4 carrier consultants for the purposes of ensuring driver compliance
5 and risk management.

6 (5) **Fees.** (a) The director shall collect a \$15 fee for each
7 abstract of a person's driving record furnished by the department.
8 After depositing \$2 of the driver's abstract fee in the move ahead WA
9 flexible account created in RCW 46.68.520, the remainder shall be
10 distributed as follows:

11 (i) Fifty percent must be deposited in the highway safety fund;
12 and

13 (ii) Fifty percent must be deposited according to RCW 46.68.038.

14 (b) Beginning July 1, 2029, the director shall collect an
15 additional \$2 fee for each abstract of a person's driving record
16 furnished by the department. The \$2 additional driver's abstract fee
17 must be deposited in the move ahead WA flexible account created in
18 RCW 46.68.520.

19 (c) City attorneys and county prosecuting attorneys are exempt
20 from paying the fees specified in (a) and (b) of this subsection for
21 an abstract of a person's driving record furnished by the department
22 for use in criminal proceedings.

23 (6) **Violation.** (a) Any negligent violation of this section is a
24 gross misdemeanor.

25 (b) Any intentional violation of this section is a class C
26 felony.

27 (7) Effective July 1, 2019, the contents of a driving abstract
28 pursuant to this section shall not include any information related to
29 sealed juvenile records unless that information is required by
30 federal law or regulation.

31 **Sec. 8.** RCW 46.61.5055 and 2020 c 330 s 15 are each amended to
32 read as follows:

33 (1) **No prior offenses in seven years.** Except as provided in RCW
34 46.61.502(6) or 46.61.504(6), a person who is convicted of a
35 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
36 within seven years shall be punished as follows:

37 (a) **Penalty for alcohol concentration less than 0.15.** In the case
38 of a person whose alcohol concentration was less than 0.15, or for
39 whom for reasons other than the person's refusal to take a test

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

3 (i) By imprisonment for not less than (~~(twenty-four)~~) 24
4 consecutive hours nor more than (~~(three hundred sixty-four)~~) 364
5 days. In lieu of the mandatory minimum term of imprisonment required
6 under this subsection (1)(a)(i), the court, in its discretion, may
7 order not less than (~~(fifteen)~~) 15 days of electronic home monitoring
8 or a (~~(ninety-day)~~) 90-day period of 24/7 sobriety program
9 monitoring. The court may consider the offender's pretrial 24/7
10 sobriety program monitoring as fulfilling a portion of posttrial
11 sentencing. The offender shall pay the cost of electronic home
12 monitoring. The county or municipality in which the penalty is being
13 imposed shall determine the cost. The court may also require the
14 offender's electronic home monitoring device or other separate
15 alcohol monitoring device to include an alcohol detection
16 breathalyzer, and the court may restrict the amount of alcohol the
17 offender may consume during the time the offender is on electronic
18 home monitoring; and

19 (ii) By a fine of not less than (~~(three hundred fifty dollars)~~)
20 \$350 nor more than (~~(five thousand dollars)~~) \$5,000. (~~(Three hundred~~
21 ~~fifty dollars)~~) \$350 of the fine may not be suspended unless the
22 court finds the offender to be indigent; or

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

28 (i) By imprisonment for not less than (~~(forty-eight)~~) 48
29 consecutive hours nor more than (~~(three hundred sixty-four days)~~)
30 364. In lieu of the mandatory minimum term of imprisonment required
31 under this subsection (1)(b)(i), the court, in its discretion, may
32 order not less than (~~(thirty)~~) 30 days of electronic home monitoring
33 or a (~~(one hundred twenty day)~~) 120-day period of 24/7 sobriety
34 program monitoring. The court may consider the offender's pretrial
35 24/7 sobriety program testing as fulfilling a portion of posttrial
36 sentencing. The offender shall pay the cost of electronic home
37 monitoring. The county or municipality in which the penalty is being
38 imposed shall determine the cost. The court may also require the
39 offender's electronic home monitoring device to include an alcohol
40 detection breathalyzer or other separate alcohol monitoring device,

1 and the court may restrict the amount of alcohol the offender may
2 consume during the time the offender is on electronic home
3 monitoring; and

4 (ii) By a fine of not less than (~~(five hundred dollars)~~) \$500 nor
5 more than (~~(five thousand dollars)~~) \$5,000. (~~(Five hundred dollars)~~)
6 \$500 of the fine may not be suspended unless the court finds the
7 offender to be indigent.

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

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

17 (i) By imprisonment for not less than (~~(thirty)~~) 30 days nor more
18 than (~~(three hundred sixty-four)~~) 364 days and (~~(sixty)~~) 60 days of
19 electronic home monitoring. Thirty days of imprisonment and (~~(sixty)~~)
20 60 days of electronic home monitoring may not be suspended or
21 converted unless the court finds that the imposition of this
22 mandatory minimum sentence would impose a substantial risk to the
23 offender's physical or mental well-being. If the offender shows that
24 the imposition of this mandatory minimum sentence would impose a
25 substantial risk to the offender's physical or mental well-being, in
26 lieu of the mandatory term of imprisonment and electronic home
27 monitoring under this subsection (2)(a)(i), the court may order a
28 minimum of either (~~(one hundred eighty)~~) 180 days of electronic home
29 monitoring or a (~~(one hundred twenty-day)~~) 120-day period of 24/7
30 sobriety program monitoring pursuant to RCW 36.28A.300 through
31 36.28A.390. Whenever the mandatory minimum sentence is suspended or
32 converted, the court shall state in writing the reason for granting
33 the suspension or conversion and the facts upon which the suspension
34 or conversion is based. The court may consider the offender's
35 pretrial 24/7 sobriety program monitoring as fulfilling a portion of
36 posttrial sentencing. The court shall order an expanded substance use
37 disorder assessment and treatment, if deemed appropriate by the
38 assessment. The offender shall pay for the cost of the electronic
39 monitoring. The county or municipality where the penalty is being
40 imposed shall determine the cost. The court may also require the

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

5 (ii) By a fine of not less than (~~five hundred dollars~~) \$500 nor
6 more than (~~five thousand dollars~~) \$5,000. (~~Five hundred dollars~~)
7 \$500 of the fine may not be suspended unless the court finds the
8 offender to be 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 (~~forty-five~~) 45 days nor
15 more than (~~three hundred sixty-four~~) 364 days and (~~ninety~~) 90
16 days of electronic home monitoring. Forty-five days of imprisonment
17 and (~~ninety~~) 90 days of electronic home monitoring may not be
18 suspended or converted unless the court finds that the imposition of
19 this mandatory minimum sentence would impose a substantial risk to
20 the offender's physical or mental well-being. If the offender shows
21 that the imposition of this mandatory minimum sentence would impose a
22 substantial risk to the offender's physical or mental well-being, in
23 lieu of the mandatory minimum term of imprisonment and electronic
24 home monitoring under this subsection (2)(b)(i), the court may order
25 a minimum of either six months of electronic home monitoring or a
26 (~~one hundred twenty-day~~) 120-day period of 24/7 sobriety program
27 monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever
28 the mandatory minimum sentence is suspended or converted, the court
29 shall state in writing the reason for granting the suspension or
30 conversion and the facts upon which the suspension or conversion is
31 based. The court may consider the offender's pretrial 24/7 sobriety
32 program monitoring as fulfilling a portion of posttrial sentencing.
33 The court shall order an expanded substance use disorder assessment
34 and 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

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

3 (ii) By a fine of not less than (~~seven hundred fifty dollars~~)
4 \$750 nor more than (~~five thousand dollars~~) \$5,000. (~~Seven hundred~~
5 ~~fifty dollars~~) \$750 of the fine may not be suspended unless the
6 court finds the offender to be 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~~) 90 days nor more
17 than (~~three hundred sixty-four~~) 364 days, if available in that
18 county or city, a six-month period of 24/7 sobriety program
19 monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and (~~one~~
20 ~~hundred twenty~~) 120 days of electronic home monitoring. Ninety days
21 of imprisonment and (~~one hundred twenty~~) 120 days of electronic
22 home monitoring may not be suspended or converted unless the court
23 finds that the imposition of this mandatory minimum sentence would
24 impose a substantial risk to the offender's physical or mental well-
25 being. If the offender shows that the imposition of this mandatory
26 minimum sentence would impose a substantial risk to the offender's
27 physical or mental well-being, in lieu of the mandatory minimum term
28 of (~~ninety~~) 90 days of imprisonment and (~~one hundred twenty~~) 120
29 days of electronic home monitoring, the court may order (~~three~~
30 ~~hundred sixty~~) 360 days of electronic home monitoring or a (~~three~~
31 ~~hundred sixty-day~~) 360-day period of 24/7 sobriety monitoring
32 pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory
33 minimum sentence is suspended or converted, the court shall state in
34 writing the reason for granting the suspension or conversion and the
35 facts upon which the suspension or conversion is based. The court
36 shall order an expanded substance use disorder assessment and
37 treatment, if deemed appropriate by the assessment. The offender
38 shall pay for the cost of the electronic monitoring. The county or
39 municipality where the penalty is being imposed shall determine the
40 cost. The court may also require the offender's electronic home

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

5 (ii) By a fine of not less than (~~one thousand dollars~~) \$1,000
6 nor more than (~~five thousand dollars~~) \$5,000. (~~One thousand~~
7 ~~dollars~~) \$1,000 of the fine may not be suspended unless the court
8 finds the offender to be 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 (~~one hundred twenty~~) 120
15 days nor more than (~~three hundred sixty-four~~) 364 days, if
16 available in that county or city, a six-month period of 24/7 sobriety
17 program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and
18 (~~one hundred fifty~~) 150 days of electronic home monitoring. One
19 hundred twenty days of imprisonment and (~~one hundred fifty~~) 150
20 days of electronic home monitoring may not be suspended or converted
21 unless the court finds that the imposition of this mandatory minimum
22 sentence would impose a substantial risk to the offender's physical
23 or mental well-being. If the offender shows that the imposition of
24 this mandatory minimum sentence would impose a substantial risk to
25 the offender's physical or mental well-being, in lieu of the
26 mandatory minimum term of (~~one hundred twenty~~) 120 days of
27 imprisonment and (~~one hundred fifty~~) 150 days of electronic home
28 monitoring, the court may order (~~three hundred sixty~~) 360 days of
29 electronic home monitoring or a (~~three hundred sixty-day~~) 360-day
30 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through
31 36.28A.390. Whenever the mandatory minimum sentence is suspended or
32 converted, the court shall state in writing the reason for granting
33 the suspension or conversion and the facts upon which the suspension
34 or conversion is based. The offender shall pay for the cost of the
35 electronic monitoring. The court shall order an expanded substance
36 use disorder assessment and treatment, if deemed appropriate by the
37 assessment. The county or municipality where the penalty is being
38 imposed shall determine the cost. The court may also require the
39 offender's electronic home monitoring device include an alcohol
40 detection breathalyzer or other separate alcohol monitoring device,

1 and may restrict the amount of alcohol the offender may consume
2 during the time the offender is on electronic home monitoring; and

3 (ii) By a fine of not less than (~~one thousand five hundred~~
4 ~~dollars~~) \$1,500 nor more than (~~five thousand dollars~~) \$5,000.
5 (~~One thousand five hundred~~) \$1,500 dollars of the fine may not be
6 suspended unless the court finds the offender to be indigent.

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

10 (a) The person has three or more prior offenses within (~~ten~~) 10
11 years; or

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

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

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

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

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

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

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

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

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

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

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

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

15 (a) Order the use of an ignition interlock or other device for an
16 additional (~~twelve~~) 12 months for each passenger under the age of
17 (~~sixteen~~) 16 when the person is subject to the penalties under
18 subsection (1)(a), (2)(a), or (3)(a) of this section; and order the
19 use of an ignition interlock device for an additional (~~eighteen~~) 18
20 months for each passenger under the age of (~~sixteen~~) 16 when the
21 person is subject to the penalties under subsection (1)(b), (2)(b),
22 (3)(b), or (4) of this section;

23 (b) In any case in which the person has no prior offenses within
24 seven years, and except as provided in RCW 46.61.502(6) or
25 46.61.504(6), order an additional (~~twenty-four~~) 24 hours of
26 imprisonment to be served consecutively for each passenger under the
27 age of (~~sixteen~~) 16, and a fine of not less than (~~one-thousand~~
28 ~~dollars~~) \$1,000 and not more than (~~five-thousand-dollars~~) \$5,000
29 for each passenger under the age of (~~sixteen~~) 16. (~~One-thousand~~
30 ~~dollars~~) \$1,000 of the fine for each passenger under the age of
31 (~~sixteen~~) 16 may not be suspended unless the court finds the
32 offender to be indigent;

33 (c) In any case in which the person has one prior offense within
34 seven years, and except as provided in RCW 46.61.502(6) or
35 46.61.504(6), order an additional five days of imprisonment to be
36 served consecutively for each passenger under the age of (~~sixteen~~)
37 16, and a fine of not less than (~~two-thousand-dollars~~) \$2,000 and
38 not more than (~~five-thousand-dollars~~) \$5,000 for each passenger
39 under the age of (~~sixteen~~) 16. One thousand dollars of the fine for

1 each passenger under the age of (~~sixteen~~) 16 may not be suspended
2 unless the court finds the offender to be indigent;

3 (d) In any case in which the person has two prior offenses within
4 seven years, and except as provided in RCW 46.61.502(6) or
5 46.61.504(6), order an additional ten days of imprisonment to be
6 served consecutively for each passenger under the age of (~~sixteen~~)
7 16, and a fine of not less than (~~three thousand dollars~~) \$3,000 and
8 not more than (~~ten thousand dollars~~) \$10,000 for each passenger
9 under the age of (~~sixteen~~) 16. (~~One thousand dollars~~) \$1,000 of
10 the fine for each passenger under the age of (~~sixteen~~) 16 may not
11 be suspended unless the court finds the offender to be indigent.

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

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

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

20 (c) Whether the driver was driving in the opposite direction of
21 the normal flow of traffic on a multiple lane highway, as defined by
22 RCW 46.04.350, with a posted speed limit of (~~forty-five~~) 45 miles
23 per hour or greater; and

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

26 (8) **Treatment and information school.** An offender punishable
27 under this section is subject to the substance use disorder
28 assessment and treatment provisions of RCW 46.61.5056.

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

33 (i) **Penalty for alcohol concentration less than 0.15.** If the
34 person's alcohol concentration was less than 0.15, or if for reasons
35 other than the person's refusal to take a test offered under RCW
36 46.20.308 there is no test result indicating the person's alcohol
37 concentration:

38 (A) Where there has been no prior offense within seven years, be
39 suspended or denied by the department for (~~ninety~~) 90 days or until
40 the person is evaluated by a substance use disorder agency or

1 probation department pursuant to RCW 46.20.311 and the person
2 completes or is enrolled in a (~~ninety-day~~) 90-day period of 24/7
3 sobriety program monitoring. In no circumstances shall the license
4 suspension be for fewer than two days;

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

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

14 (ii) **Penalty for alcohol concentration at least 0.15.** If the
15 person's alcohol concentration was at least 0.15:

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

23 (B) Where there has been one prior offense within seven years, be
24 revoked or denied by the department for (~~nine-hundred~~) 900 days; or

25 (C) Where there have been two or more prior offenses within seven
26 years, be revoked or denied by the department for four years; or

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

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

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

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

36 (b) (i) The department shall grant credit on a day-for-day basis
37 for a suspension, revocation, or denial imposed under this subsection
38 (9) for any portion of a suspension, revocation, or denial already
39 served under RCW 46.20.3101 arising out of the same incident.

1 (ii) If a person has already served a suspension, revocation, or
2 denial under RCW 46.20.3101 for a period equal to or greater than the
3 period imposed under this subsection (9), the department shall
4 provide notice of full credit, shall provide for no further
5 suspension or revocation under this subsection provided the person
6 has completed the requirements under RCW 46.20.311 and paid the
7 probationary license fee under RCW 46.20.355 by the date specified in
8 the notice under RCW 46.20.245, and shall impose no additional
9 reissue fees for this credit.

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

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

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

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

35 (11) **Conditions of probation.** (a) In addition to any
36 nonsuspendable and nondeferrable jail sentence required by this
37 section, whenever the court imposes up to (~~three hundred sixty~~
38 ~~four~~) 364 days in jail, the court shall also suspend but shall not
39 defer a period of confinement for a period not exceeding five years.
40 The court shall impose conditions of probation that include: (i) Not

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

22 (b) For each violation of mandatory conditions of probation under
23 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
24 order the convicted person to be confined for (~~thirty~~) 30 days,
25 which shall not be suspended or deferred.

26 (c) (~~For~~) (i) Except as provided in (c)(ii) of this subsection,
27 for each incident involving a violation of a mandatory condition of
28 probation imposed under this subsection, the license, permit, or
29 privilege to drive of the person shall be suspended by the court for
30 (~~thirty~~) 30 days or, if such license, permit, or privilege to drive
31 already is suspended, revoked, or denied at the time the finding of
32 probation violation is made, the suspension, revocation, or denial
33 then in effect shall be extended by (~~thirty~~) 30 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. The person may apply for an ignition interlock
37 driver's license under RCW 46.20.385 during the suspension period.

38 (ii) For each incident involving a violation of RCW
39 46.20.342(1)(c), the court has discretion not to impose a suspension
40 when the person provides the court with proof that the violation has

1 been cured within 30 days. The court is not required to notify the
2 department of the violation unless it is not cured within 30 days.

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

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

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

12 (c) The court determines that there is reason to believe that the
13 offender would violate the conditions of the electronic home
14 monitoring penalty.

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

22 Whenever the combination of jail time and electronic home
23 monitoring or alternative sentence would exceed (~~three hundred~~
24 ~~sixty-four~~) 364 days, the offender shall serve the jail portion of
25 the sentence first, and the electronic home monitoring or alternative
26 portion of the sentence shall be reduced so that the combination does
27 not exceed (~~three hundred sixty-four~~) 364 days.

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

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

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

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

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

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

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

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

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

12 (vii) A conviction for a violation of RCW 47.68.220 or an
13 equivalent local ordinance committed in a careless or reckless manner
14 if the conviction is the result of a charge that was originally filed
15 as a violation of RCW 47.68.220 or an equivalent local ordinance
16 while under the influence of intoxicating liquor or any drug;

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

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

21 (x) A conviction for a violation of RCW 46.61.520 committed while
22 under the influence of intoxicating liquor or any drug, or a
23 conviction for a violation of RCW 46.61.520 committed in a reckless
24 manner or with the disregard for the safety of others if the
25 conviction is the result of a charge that was originally filed as a
26 violation of RCW 46.61.520 committed while under the influence of
27 intoxicating liquor or any drug;

28 (xi) A conviction for a violation of RCW 46.61.522 committed
29 while under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.522 committed in a reckless
31 manner or with the disregard for the safety of others if the
32 conviction is the result of a charge that was originally filed as a
33 violation of RCW 46.61.522 committed while under the influence of
34 intoxicating liquor or any drug;

35 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
36 or 9A.36.050 or an equivalent local ordinance, if the conviction is
37 the result of a charge that was originally filed as a violation of
38 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
39 RCW 46.61.520 or 46.61.522;

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

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

7 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
8 prosecution for a violation of RCW 46.61.5249, or an equivalent local
9 ordinance, if the charge under which the deferred prosecution was
10 granted was originally filed as a violation of RCW 46.61.502 or
11 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
12 46.61.522;

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

19 (xvii) A deferred sentence imposed in a prosecution for a
20 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
21 equivalent local ordinance, if the charge under which the deferred
22 sentence was imposed was originally filed as a violation of RCW
23 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
24 violation of RCW 46.61.520 or 46.61.522;

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

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

31 (c) "Within seven years" means that the arrest for a prior
32 offense occurred within seven years before or after the arrest for
33 the current offense; and

34 (d) "Within (~~ten~~) 10 years" means that the arrest for a prior
35 offense occurred within (~~ten~~) 10 years before or after the arrest
36 for the current offense.

37 (15) All fines imposed by this section apply to adult offenders
38 only.

1 NEW SECTION. **Sec. 9.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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