

CERTIFICATION OF ENROLLMENT
THIRD SUBSTITUTE HOUSE BILL 1504

66th Legislature
2020 Regular Session

Passed by the House March 10, 2020
Yeas 96 Nays 1

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2020
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **THIRD SUBSTITUTE HOUSE BILL 1504** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

THIRD SUBSTITUTE HOUSE BILL 1504

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington **66th Legislature** **2020 Regular Session**

By House Transportation (originally sponsored by Representatives Klippert and Goodman)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to impaired driving; amending RCW 9.94A.533,
2 9.94A.729, 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.311,
3 46.20.385, 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500,
4 46.61.5055, 46.61.5056, 46.61.524, and 46.68.041; reenacting and
5 amending RCW 46.20.355; repealing RCW 43.43.3951; prescribing
6 penalties; and providing an effective date.

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

8 **Sec. 1.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read
9 as follows:

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

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

18 (3) The following additional times shall be added to the standard
19 sentence range for felony crimes committed after July 23, 1995, if
20 the offender or an accomplice was armed with a firearm as defined in
21 RCW 9.41.010 and the offender is being sentenced for one of the

1 crimes listed in this subsection as eligible for any firearm
2 enhancements based on the classification of the completed felony
3 crime. If the offender is being sentenced for more than one offense,
4 the firearm enhancement or enhancements must be added to the total
5 period of confinement for all offenses, regardless of which
6 underlying offense is subject to a firearm enhancement. If the
7 offender or an accomplice was armed with a firearm as defined in RCW
8 9.41.010 and the offender is being sentenced for an anticipatory
9 offense under chapter 9A.28 RCW to commit one of the crimes listed in
10 this subsection as eligible for any firearm enhancements, the
11 following additional times shall be added to the standard sentence
12 range determined under subsection (2) of this section based on the
13 felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

23 (d) If the offender is being sentenced for any firearm
24 enhancements under (a), (b), and/or (c) of this subsection and the
25 offender has previously been sentenced for any deadly weapon
26 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
27 subsection or subsection (4)(a), (b), and/or (c) of this section, or
28 both, all firearm enhancements under this subsection shall be twice
29 the amount of the enhancement listed;

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

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

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

1 (f) The firearm enhancements in this section shall apply to all
2 felony crimes except the following: Possession of a machine gun or
3 bump-fire stock, possessing a stolen firearm, drive-by shooting,
4 theft of a firearm, unlawful possession of a firearm in the first and
5 second degree, and use of a machine gun or bump-fire stock in a
6 felony;

7 (g) If the standard sentence range under this section exceeds the
8 statutory maximum sentence for the offense, the statutory maximum
9 sentence shall be the presumptive sentence unless the offender is a
10 persistent offender. If the addition of a firearm enhancement
11 increases the sentence so that it would exceed the statutory maximum
12 for the offense, the portion of the sentence representing the
13 enhancement may not be reduced.

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

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

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

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

1 (d) If the offender is being sentenced under (a), (b), and/or (c)
2 of this subsection for any deadly weapon enhancements and the
3 offender has previously been sentenced for any deadly weapon
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
5 subsection or subsection (3)(a), (b), and/or (c) of this section, or
6 both, all deadly weapon enhancements under this subsection shall be
7 twice the amount of the enhancement listed;

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

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

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

18 (f) The deadly weapon enhancements in this section shall apply to
19 all felony crimes except the following: Possession of a machine gun
20 or bump-fire stock, possessing a stolen firearm, drive-by shooting,
21 theft of a firearm, unlawful possession of a firearm in the first and
22 second degree, and use of a machine gun or bump-fire stock in a
23 felony;

24 (g) If the standard sentence range under this section exceeds the
25 statutory maximum sentence for the offense, the statutory maximum
26 sentence shall be the presumptive sentence unless the offender is a
27 persistent offender. If the addition of a deadly weapon enhancement
28 increases the sentence so that it would exceed the statutory maximum
29 for the offense, the portion of the sentence representing the
30 enhancement may not be reduced.

31 (5) The following additional times shall be added to the standard
32 sentence range if the offender or an accomplice committed the offense
33 while in a county jail or state correctional facility and the
34 offender is being sentenced for one of the crimes listed in this
35 subsection. If the offender or an accomplice committed one of the
36 crimes listed in this subsection while in a county jail or state
37 correctional facility, and the offender is being sentenced for an
38 anticipatory offense under chapter 9A.28 RCW to commit one of the
39 crimes listed in this subsection, the following additional times

1 shall be added to the standard sentence range determined under
2 subsection (2) of this section:

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

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

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

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

11 (6) An additional twenty-four months shall be added to the
12 standard sentence range for any ranked offense involving a violation
13 of chapter 69.50 RCW if the offense was also a violation of RCW
14 69.50.435 or 9.94A.827. All enhancements under this subsection shall
15 run consecutively to all other sentencing provisions, for all
16 offenses sentenced under this chapter.

17 (7) An additional two years shall be added to the standard
18 sentence range for vehicular homicide committed while under the
19 influence of intoxicating liquor or any drug as defined by RCW
20 46.61.502 for each prior offense as defined in RCW 46.61.5055.

21 Notwithstanding any other provision of law, all impaired driving
22 enhancements under this subsection are mandatory, shall be served in
23 total confinement, and shall run consecutively to all other
24 sentencing provisions, including other impaired driving enhancements,
25 for all offenses sentenced under this chapter.

26 An offender serving a sentence under this subsection may be
27 granted an extraordinary medical placement when authorized under RCW
28 9.94A.728(1)(c).

29 (8)(a) The following additional times shall be added to the
30 standard sentence range for felony crimes committed on or after July
31 1, 2006, if the offense was committed with sexual motivation, as that
32 term is defined in RCW 9.94A.030. If the offender is being sentenced
33 for more than one offense, the sexual motivation enhancement must be
34 added to the total period of total confinement for all offenses,
35 regardless of which underlying offense is subject to a sexual
36 motivation enhancement. If the offender committed the offense with
37 sexual motivation and the offender is being sentenced for an
38 anticipatory offense under chapter 9A.28 RCW, the following
39 additional times shall be added to the standard sentence range

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

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

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

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

11 (iv) If the offender is being sentenced for any sexual motivation
12 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
13 the offender has previously been sentenced for any sexual motivation
14 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
15 (iii) of this subsection, all sexual motivation enhancements under
16 this subsection shall be twice the amount of the enhancement listed;

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

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

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

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

29 (d) If the standard sentence range under this subsection exceeds
30 the statutory maximum sentence for the offense, the statutory maximum
31 sentence shall be the presumptive sentence unless the offender is a
32 persistent offender. If the addition of a sexual motivation
33 enhancement increases the sentence so that it would exceed the
34 statutory maximum for the offense, the portion of the sentence
35 representing the enhancement may not be reduced;

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

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

4 (9) An additional one-year enhancement shall be added to the
5 standard sentence range for the felony crimes of RCW 9A.44.073,
6 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
7 or after July 22, 2007, if the offender engaged, agreed, or offered
8 to engage the victim in the sexual conduct in return for a fee. If
9 the offender is being sentenced for more than one offense, the
10 one-year enhancement must be added to the total period of total
11 confinement for all offenses, regardless of which underlying offense
12 is subject to the enhancement. If the offender is being sentenced for
13 an anticipatory offense for the felony crimes of RCW 9A.44.073,
14 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
15 offender attempted, solicited another, or conspired to engage, agree,
16 or offer to engage the victim in the sexual conduct in return for a
17 fee, an additional one-year enhancement shall be added to the
18 standard sentence range determined under subsection (2) of this
19 section. For purposes of this subsection, "sexual conduct" means
20 sexual intercourse or sexual contact, both as defined in chapter
21 9A.44 RCW.

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

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

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

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

6 (12) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.831.

9 (13) An additional twelve months shall be added to the standard
10 sentence range for vehicular homicide committed while under the
11 influence of intoxicating liquor or any drug as defined by RCW
12 46.61.520 or for vehicular assault committed while under the
13 influence of intoxicating liquor or any drug as defined by RCW
14 46.61.522, or for any felony driving under the influence (RCW
15 46.61.502(6)) or felony physical control under the influence (RCW
16 46.61.504(6)) for each child passenger under the age of sixteen who
17 is an occupant in the defendant's vehicle. These enhancements shall
18 be mandatory, shall be served in total confinement, and shall run
19 consecutively to all other sentencing provisions, including other
20 minor child enhancements, for all offenses sentenced under this
21 chapter. If the addition of a minor child enhancement increases the
22 sentence so that it would exceed the statutory maximum for the
23 offense, the portion of the sentence representing the enhancement
24 (~~may not be reduced~~) shall be mandatory, shall be served in total
25 confinement, and shall run consecutively to all other sentencing
26 provisions.

27 (14) An additional twelve months shall be added to the standard
28 sentence range for an offense that is also a violation of RCW
29 9.94A.832.

30 **Sec. 2.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
31 read as follows:

32 (1)(a) The term of the sentence of an offender committed to a
33 correctional facility operated by the department may be reduced by
34 earned release time in accordance with procedures that shall be
35 developed and adopted by the correctional agency having jurisdiction
36 in which the offender is confined. The earned release time shall be
37 for good behavior and good performance, as determined by the
38 correctional agency having jurisdiction. The correctional agency

1 shall not credit the offender with earned release credits in advance
2 of the offender actually earning the credits.

3 (b) Any program established pursuant to this section shall allow
4 an offender to earn early release credits for presentence
5 incarceration. If an offender is transferred from a county jail to
6 the department, the administrator of a county jail facility shall
7 certify to the department the amount of time spent in custody at the
8 facility and the number of days of early release credits lost or not
9 earned. The department may approve a jail certification from a
10 correctional agency that calculates early release time based on the
11 actual amount of confinement time served by the offender before
12 sentencing when an erroneous calculation of confinement time served
13 by the offender before sentencing appears on the judgment and
14 sentence. The department must adjust an offender's rate of early
15 release listed on the jail certification to be consistent with the
16 rate applicable to offenders in the department's facilities. However,
17 the department is not authorized to adjust the number of presentence
18 early release days that the jail has certified as lost or not earned.

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

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

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

31 (a) In the case of an offender sentenced pursuant to RCW
32 10.95.030(3) or 10.95.035, the offender may not receive any earned
33 early release time during the minimum term of confinement imposed by
34 the court; for any remaining portion of the sentence served by the
35 offender, the aggregate earned release time may not exceed ten
36 percent of the sentence.

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

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

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

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

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

10 (A) A sex offense;

11 (B) A violent offense;

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

13 (D) A felony that is domestic violence as defined in RCW
14 10.99.020;

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

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

19 (G) A violation of, or an attempt, solicitation, or conspiracy to
20 violate, RCW 69.50.406 (delivery of a controlled substance to a
21 minor);

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

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

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

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

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

38 (5)(a) A person who is eligible for earned early release as
39 provided in this section and who will be supervised by the department

1 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
2 community custody in lieu of earned release time;

3 (b) The department shall, as a part of its program for release to
4 the community in lieu of earned release, require the offender to
5 propose a release plan that includes an approved residence and living
6 arrangement. All offenders with community custody terms eligible for
7 release to community custody in lieu of earned release shall provide
8 an approved residence and living arrangement prior to release to the
9 community;

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

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

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

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

30 A voucher must be provided in conjunction with additional
31 transition support programming or services that enable an offender to
32 participate in services including, but not limited to, substance
33 abuse treatment, mental health treatment, sex offender treatment,
34 educational programming, or employment programming;

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

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

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

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

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

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

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

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

30 (iv) Have an ignition interlock device on all motor vehicles
31 operated by the person and that such person agrees not to operate any
32 motor vehicle without an ignition interlock device as required by the
33 court. Under this subsection (1)(a)(iv), the person must file a sworn
34 statement with the court upon release at arraignment that states the
35 person will not operate any motor vehicle without an ignition
36 interlock device while the ignition interlock restriction is imposed
37 by the court. Such person must also submit to 24/7 sobriety program
38 monitoring pursuant to (a)(ii) of this subsection, if available, or

1 alcohol monitoring, at the expense of the person, as provided in RCW
2 46.61.5055(5) (b) and (c).

3 (b) The court shall immediately notify the department of
4 licensing when an ignition interlock restriction is imposed(~~(i)~~
5 ~~As))~~ as a condition of release (~~pursuant to (a) of this~~
6 ~~subsection;~~) or (~~(ii)~~) after conviction in instances where a
7 person is charged with, or convicted of, a violation of RCW
8 46.61.502, 46.61.504, 46.61.520, or 46.61.522(~~, and the offense~~
9 ~~involves alcohol~~). If the court imposes an ignition interlock
10 restriction, the department of licensing shall attach or imprint a
11 notation on the driving record of any person restricted under this
12 section stating that the person may operate only a motor vehicle
13 equipped with a functioning ignition interlock device.

14 (2)(a) Upon acquittal or dismissal of all pending or current
15 charges relating to a violation of RCW 46.61.502, 46.61.504,
16 46.61.520, or 46.61.522, or equivalent local ordinance, the court
17 shall authorize removal of the ignition interlock device and lift any
18 requirement to comply with electronic alcohol/drug monitoring imposed
19 under subsection (1) of this section. Nothing in this section limits
20 the authority of the court or department under RCW 46.20.720.

21 (b) If the court authorizes removal of an ignition interlock
22 device imposed under this section, the court shall immediately notify
23 the department of licensing regarding the lifting of the ignition
24 interlock restriction and the department of licensing shall release
25 any attachment, imprint, or notation on such person's driving record
26 relating to the ignition interlock requirement imposed under this
27 section.

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

33 **Sec. 4.** RCW 38.52.430 and 2012 c 183 s 6 are each amended to
34 read as follows:

35 A person whose intoxication causes an incident resulting in an
36 appropriate emergency response, and who, in connection with the
37 incident, has been found guilty of or has had their prosecution
38 deferred for (1) driving while under the influence of intoxicating
39 liquor or any drug, RCW 46.61.502; (2) physical control of a motor

1 vehicle while under the influence of intoxicating liquor or any drug,
2 RCW 46.61.504; (3) operating an aircraft under the influence of
3 intoxicants or drugs, RCW 47.68.220; (~~(3)~~) (4) use of a vessel
4 while under the influence of alcohol or drugs, RCW 79A.60.040;
5 (~~(4)~~) (5) vehicular homicide while under the influence of
6 intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (~~(5)~~) (6)
7 vehicular assault while under the influence of intoxicating liquor or
8 any drug, RCW 46.61.522(1)(b), is liable for the expense of an
9 emergency response by a public agency to the incident.

10 The expense of an emergency response is a charge against the
11 person liable for expenses under this section. The charge constitutes
12 a debt of that person and is collectible by the public agency
13 incurring those costs in the same manner as in the case of an
14 obligation under a contract, expressed or implied. Following a
15 conviction of an offense listed in this section, and prior to
16 sentencing, the prosecution may present to the court information
17 setting forth the expenses incurred by the public agency for its
18 emergency response to the incident. Upon a finding by the court that
19 the expenses are reasonable, the court shall order the defendant to
20 reimburse the public agency. The cost reimbursement shall be included
21 in the sentencing order as an additional monetary obligation of the
22 defendant and may not be substituted for any other fine or cost
23 required or allowed by statute. The court may establish a payment
24 schedule for the payment of the cost reimbursement, separate from any
25 payment schedule imposed for other fines and costs. All payments for
26 the cost reimbursement must be remitted directly to the public agency
27 or agencies that incurred the cost associated with the emergency
28 response.

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

32 If more than one public agency makes a claim for payment from an
33 individual for an emergency response to a single incident under the
34 provisions of this section, and the sum of the claims exceeds the
35 amount recovered, the division of the amount recovered shall be
36 determined by an interlocal agreement consistent with the
37 requirements of chapter 39.34 RCW.

38 **Sec. 5.** RCW 46.20.245 and 2005 c 288 s 1 are each amended to
39 read as follows:

1 (1) Whenever the department proposes to withhold the driving
2 privilege of a person or disqualify a person from operating a
3 commercial motor vehicle and this action is made mandatory by the
4 provisions of this chapter or other law, the department must give
5 notice to the person in writing by posting in the United States mail,
6 appropriately addressed, postage prepaid, or by personal service.
7 Notice by mail is given upon deposit in the United States mail.
8 Notice given under this subsection must specify the date upon which
9 the driving privilege is to be withheld which shall not be less than
10 forty-five days after the original notice is given.

11 (2) For persons subject to suspension, revocation, or denial of a
12 driver's license who are eligible for full credit under RCW
13 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section
14 must also notify the person of the obligation to complete the
15 requirements under RCW 46.20.311 and pay the probationary license fee
16 under RCW 46.20.355 by the date specified in the notice in order to
17 avoid license suspension.

18 (3) Within fifteen days after notice has been given to a person
19 under subsection (1) of this section, the person may request in
20 writing an administrative review before the department. If the
21 request is mailed, it must be postmarked within fifteen days after
22 the date the department has given notice. If a person fails to
23 request an administrative review within fifteen days after the date
24 the department gives notice, the person is considered to have
25 defaulted and loses his or her right to an administrative review
26 unless the department finds good cause for a request after the
27 fifteen-day period.

28 (a) An administrative review under this subsection shall consist
29 solely of an internal review of documents and records submitted or
30 available to the department, unless the person requests an interview
31 before the department, in which case all or any part of the
32 administrative review may, at the discretion of the department, be
33 conducted by telephone or other electronic means.

34 (b) The only issues to be addressed in the administrative review
35 are:

36 (i) Whether the records relied on by the department identify the
37 correct person; and

38 (ii) Whether the information transmitted from the court or other
39 reporting agency or entity regarding the person accurately describes
40 the action taken by the court or other reporting agency or entity.

1 (c) For the purposes of this section, the notice received from a
2 court or other reporting agency or entity, regardless of form or
3 format, is prima facie evidence that the information from the court
4 or other reporting agency or entity regarding the person is accurate.
5 A person requesting administrative review has the burden of showing
6 by a preponderance of the evidence that the person is not subject to
7 the withholding of the driving privilege.

8 (d) The action subject to the notification requirements of
9 subsection (1) of this section shall be stayed during the
10 administrative review process.

11 (e) Judicial review of a department order affirming the action
12 subject to the notification requirements of subsection (1) of this
13 section after an administrative review shall be available in the same
14 manner as provided in RCW 46.20.308(~~((9))~~) (8). The department shall
15 certify its record to the court within thirty days after service upon
16 the department of the petition for judicial review. The action
17 subject to the notification requirements of subsection (1) of this
18 section shall not automatically be stayed during the judicial review.
19 If judicial relief is sought for a stay or other temporary remedy
20 from the department's action, the court shall not grant relief unless
21 the court finds that the appellant is likely to prevail in the appeal
22 and that without a stay the appellant will suffer irreparable injury.

23 (~~((3))~~) (4) The department may adopt rules that are considered
24 necessary or convenient by the department for purposes of
25 administering this section, including, but not limited to, rules
26 regarding expedited procedures for issuing orders and expedited
27 notice procedures.

28 (~~((4))~~) (5) This section does not apply where an opportunity for
29 an informal settlement, driver improvement interview, or formal
30 hearing is otherwise provided by law or rule of the department.

31 **Sec. 6.** RCW 46.20.3101 and 2016 c 203 s 18 are each amended to
32 read as follows:

33 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
34 or deny the arrested person's license, permit, or privilege to drive
35 as follows:

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

37 (a) For a first refusal within seven years, where there has not
38 been a previous incident within seven years that resulted in

1 administrative action under this section, revocation or denial for
2 one year;

3 (b) For a second or subsequent refusal within seven years, or for
4 a first refusal where there has been one or more previous incidents
5 within seven years that have resulted in administrative action under
6 this section, revocation or denial for two years or until the person
7 reaches age twenty-one, whichever is longer.

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

12 (a) For a first incident within seven years, where there has not
13 been a previous incident within seven years that resulted in
14 administrative action under this section, suspension for ninety days,
15 unless the person successfully completes or is enrolled in a pretrial
16 24/7 sobriety program;

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

19 (3) In the case of an incident where a person under age twenty-
20 one has submitted to or been administered a test or tests indicating
21 that the alcohol concentration of the person's breath or blood was
22 0.02 or more, or that the THC concentration of the person's blood was
23 above 0.00:

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

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

29 (4) The department shall grant credit on a day-for-day basis for
30 ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~
31 ~~served))~~ imposed under this section for any portion of a suspension,
32 revocation, or denial ~~((imposed))~~ already served under RCW 46.61.5055
33 arising out of the same incident. If a person has already served a
34 suspension, revocation, or denial under RCW 46.61.5055 for a period
35 equal to or greater than the period imposed under this section, the
36 department shall provide notice of full credit, shall provide for no
37 further suspension or revocation under this section, and shall impose
38 no additional reissue fees for this credit.

1 **Sec. 7.** RCW 46.20.311 and 2016 c 203 s 12 are each amended to
2 read as follows:

3 (1)(a) The department shall not suspend a driver's license or
4 privilege to drive a motor vehicle on the public highways for a fixed
5 period of more than one year, except as specifically permitted under
6 RCW 46.20.267, 46.20.342, or other provision of law.

7 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
8 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
9 driving privilege of any person is suspended by reason of a
10 conviction, a finding that a traffic infraction has been committed,
11 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
12 46.20.308, the suspension shall remain in effect until the person
13 gives and thereafter maintains proof of financial responsibility for
14 the future as provided in chapter 46.29 RCW.

15 (c) If the suspension is the result of a nonfelony violation of
16 RCW 46.61.502 or 46.61.504, the department shall determine the
17 person's eligibility for licensing based upon the reports provided by
18 the (~~alcoholism~~) substance use disorder agency or probation
19 department designated under RCW 46.61.5056 and shall deny
20 reinstatement until enrollment and participation in an approved
21 program has been established and the person is otherwise qualified.
22 If the suspension is the result of a violation of RCW 46.61.502(6) or
23 46.61.504(6), the department shall determine the person's eligibility
24 for licensing based upon the reports provided by the (~~alcohol or~~
25 ~~drug dependency~~) substance use disorder agency required under RCW
26 46.61.524 and shall deny reinstatement until satisfactory progress in
27 an approved program has been established and the person is otherwise
28 qualified. If the suspension is the result of a violation of RCW
29 46.61.502 or 46.61.504, and the person is required pursuant to RCW
30 46.20.720 to drive only a motor vehicle equipped with a functioning
31 ignition interlock, the department shall determine the person's
32 eligibility for licensing based upon written verification by a
33 company doing business in the state that it has installed the
34 required device on a vehicle owned or operated by the person seeking
35 reinstatement. The department may waive the requirement for written
36 verification under this subsection if it determines to its
37 satisfaction that a device previously verified as having been
38 installed on a vehicle owned or operated by the person is still
39 installed and functioning or as permitted by RCW 46.20.720(8). If,
40 based upon notification from the interlock provider or otherwise, the

1 department determines that an interlock required under RCW 46.20.720
2 is no longer installed or functioning as required, the department
3 shall suspend the person's license or privilege to drive. Whenever
4 the license or driving privilege of any person is suspended or
5 revoked as a result of noncompliance with an ignition interlock
6 requirement, the suspension shall remain in effect until the person
7 provides notice issued by a company doing business in the state that
8 a vehicle owned or operated by the person is equipped with a
9 functioning ignition interlock device.

10 (d) Whenever the license or driving privilege of any person is
11 suspended as a result of certification of noncompliance with a child
12 support order under chapter 74.20A RCW, the suspension shall remain
13 in effect until the person provides a release issued by the
14 department of social and health services stating that the person is
15 in compliance with the order.

16 (e) (i) The department shall not issue to the person a new,
17 duplicate, or renewal license until the person pays a reissue fee of
18 seventy-five dollars.

19 (ii) (~~(if)~~) Except as provided in subsection (4) of this section,
20 if the suspension is the result of a violation of RCW 46.61.502 or
21 46.61.504, or is the result of administrative action under RCW
22 46.20.308, the reissue fee shall be one hundred (~~(fifty)~~) seventy
23 dollars.

24 (2) (a) Any person whose license or privilege to drive a motor
25 vehicle on the public highways has been revoked, unless the
26 revocation was for a cause which has been removed, is not entitled to
27 have the license or privilege renewed or restored until: (i) After
28 the expiration of one year from the date the license or privilege to
29 drive was revoked; (ii) after the expiration of the applicable
30 revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii)
31 after the expiration of two years for persons convicted of vehicular
32 homicide; or (iv) after the expiration of the applicable revocation
33 period provided by RCW 46.20.265.

34 (b) (i) After the expiration of the appropriate period, the person
35 may make application for a new license as provided by law together
36 with a reissue fee in the amount of seventy-five dollars.

37 (ii) (~~(if)~~) Except as provided in subsection (4) of this section,
38 if the revocation is the result of a violation of RCW 46.20.308,
39 46.61.502, or 46.61.504, the reissue fee shall be one hundred
40 (~~(fifty)~~) seventy dollars. If the revocation is the result of a

1 nonfelony violation of RCW 46.61.502 or 46.61.504, the department
2 shall determine the person's eligibility for licensing based upon the
3 reports provided by the (~~(alcoholism)~~) substance use disorder agency
4 or probation department designated under RCW 46.61.5056 and shall
5 deny reissuance of a license, permit, or privilege to drive until
6 enrollment and participation in an approved program has been
7 established and the person is otherwise qualified. If the suspension
8 is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the
9 department shall determine the person's eligibility for licensing
10 based upon the reports provided by the (~~(alcohol or drug dependency)~~)
11 substance use disorder agency required under RCW 46.61.524 and shall
12 deny reinstatement until satisfactory progress in an approved program
13 has been established and the person is otherwise qualified. If the
14 revocation is the result of a violation of RCW 46.61.502 or
15 46.61.504, and the person is required pursuant to RCW 46.20.720 to
16 drive only a motor vehicle equipped with a functioning ignition
17 interlock or other biological or technical device, the department
18 shall determine the person's eligibility for licensing based upon
19 written verification by a company doing business in the state that it
20 has installed the required device on a vehicle owned or operated by
21 the person applying for a new license. The department may waive the
22 requirement for written verification under this subsection if it
23 determines to its satisfaction that a device previously verified as
24 having been installed on a vehicle owned or operated by the person is
25 still installed and functioning or as permitted by RCW 46.20.720(8).
26 If, following issuance of a new license, the department determines,
27 based upon notification from the interlock provider or otherwise,
28 that an interlock required under RCW 46.20.720 is no longer
29 functioning, the department shall suspend the person's license or
30 privilege to drive until the department has received written
31 verification from an interlock provider that a functioning interlock
32 is installed.

33 (c) Except for a revocation under RCW 46.20.265, the department
34 shall not then issue a new license unless it is satisfied after
35 investigation of the driving ability of the person that it will be
36 safe to grant the privilege of driving a motor vehicle on the public
37 highways, and until the person gives and thereafter maintains proof
38 of financial responsibility for the future as provided in chapter
39 46.29 RCW. For a revocation under RCW 46.20.265, the department shall
40 not issue a new license unless it is satisfied after investigation of

1 the driving ability of the person that it will be safe to grant that
2 person the privilege of driving a motor vehicle on the public
3 highways.

4 (3) (a) Whenever the driver's license of any person is suspended
5 pursuant to Article IV of the nonresident violators compact or RCW
6 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not
7 issue to the person any new or renewal license until the person pays
8 a reissue fee of seventy-five dollars.

9 (b) (~~(1f)~~) Except as provided in subsection (4) of this section,
10 if the suspension is the result of a violation of the laws of this or
11 any other state, province, or other jurisdiction involving (i) the
12 operation or physical control of a motor vehicle upon the public
13 highways while under the influence of intoxicating liquor or drugs,
14 or (ii) the refusal to submit to a chemical test of the driver's
15 blood alcohol content, the reissue fee shall be one hundred (~~(fifty))~~
16 seventy dollars.

17 (4) When the department reinstates a person's driver's license
18 following a suspension, revocation, or denial under RCW 46.20.3101 or
19 46.61.5055, and the person is entitled to full day-for-day credit
20 under RCW 46.20.3101(4) or 46.61.5055(9)(b)(ii) for an additional
21 restriction arising from the same incident, the department shall
22 impose no additional reissue fees under subsection (1)(e)(ii),
23 (2)(b)(ii), or (3)(b) of this section associated with the additional
24 restriction.

25 **Sec. 8.** RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are
26 each reenacted and amended to read as follows:

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

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

5 (3) Following receipt of an abstract indicating a deferred
6 prosecution has been granted under RCW 10.05.060, or upon
7 reinstatement or reissuance of a driver's license suspended or
8 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,
9 the department shall require the person to obtain a probationary
10 license in order to operate a motor vehicle in the state of
11 Washington, except as otherwise exempt under RCW 46.20.025. The
12 department shall not issue the probationary license unless the person
13 is otherwise qualified for licensing, and the person must renew the
14 probationary license on the same cycle as the person's regular
15 license would have been renewed until the expiration of the five-year
16 probationary status period imposed under subsection (2) of this
17 section.

18 (4) If a person is eligible for full credit under RCW
19 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued
20 under RCW 46.20.245, has completed the requirements under RCW
21 46.20.311 and paid the fee under subsection (5) of this section, the
22 department shall issue a probationary license on the date specified
23 in the notice with no further action required of the person.

24 (5) For each original issue or renewal of a probationary license
25 under this section, the department shall charge a fee of fifty
26 dollars in addition to any other licensing fees required. Except for
27 when renewing a probationary license, the department shall waive the
28 requirement to obtain an additional probationary license and the
29 fifty dollar fee if the person has a probationary license in his or
30 her possession at the time a new probationary license is required.

31 ~~((5))~~ (6) A probationary license shall enable the department
32 and law enforcement personnel to determine that the person is on
33 probationary status. The fact that a person's driving privilege is in
34 probationary status or that the person has been issued a probationary
35 license shall not be a part of the person's record that is available
36 to insurance companies.

37 **Sec. 9.** RCW 46.20.385 and 2017 c 336 s 4 are each amended to
38 read as follows:

1 (1) (a) Any person licensed under this chapter or who has a valid
2 driver's license from another state, who is convicted of: (i) A
3 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
4 out-of-state statute or ordinance, or (ii) a violation of RCW
5 46.61.520(1)(a) or an equivalent local or out-of-state statute or
6 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
7 (b) or (c) if the conviction is the result of a charge that was
8 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
9 46.61.522(1)(b) or an equivalent local or out-of-state statute or
10 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
11 the result of a charge that was originally filed as a violation of
12 RCW 46.61.522(1)(b) committed while under the influence of
13 intoxicating liquor or any drug, or (vi) who has had or will have his
14 or her license suspended, revoked, or denied under RCW 46.20.3101, or
15 who is otherwise permitted under subsection (8) of this section, may
16 submit to the department an application for an ignition interlock
17 driver's license. The department, upon receipt of the prescribed fee
18 and upon determining that the petitioner is eligible to receive the
19 license, may issue an ignition interlock driver's license.

20 (b) A person may apply for an ignition interlock driver's license
21 anytime, including immediately after receiving the notices under RCW
22 46.20.308 or after his or her license is suspended, revoked, or
23 denied.

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

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

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

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

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

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

21 (5) The director shall cancel an ignition interlock driver's
22 license after receiving notice that the holder thereof has been
23 convicted of operating a motor vehicle in violation of its
24 restrictions, no longer meets the eligibility requirements, or has
25 been convicted of or found to have committed a separate offense or
26 any other act or omission that under this chapter would warrant
27 suspension or revocation of a regular driver's license. The
28 department must give notice of the cancellation as provided under RCW
29 46.20.245. A person whose ignition interlock driver's license has
30 been canceled under this section may reapply for a new ignition
31 interlock driver's license if he or she is otherwise qualified under
32 this section and pays the fee required under RCW 46.20.380.

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

1 cents per month of the additional fee to cover the expenses
2 associated with administering the fee.

3 (b) The department shall deposit the proceeds of the (~~twenty~~)
4 twenty-one dollar fee into the ignition interlock device revolving
5 account. Expenditures from the account may be used only to administer
6 and operate the ignition interlock device revolving account program.
7 The department shall adopt rules to provide monetary assistance
8 according to greatest need and when funds are available.

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

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

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

27 **Sec. 10.** RCW 46.20.720 and 2019 c 232 s 22 are each amended to
28 read as follows:

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

32 (a) **Pretrial release.** Upon receipt of notice from a court that an
33 ignition interlock device restriction has been imposed under RCW
34 10.21.055;

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

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

1 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
2 or

3 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
4 if the person would be required under RCW 46.61.5249(4) or
5 46.61.500(3) (a) or (b) to install an ignition interlock device on
6 all vehicles operated by the person in the event of a conviction;

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

11 (i) Due to a conviction of a violation of RCW 46.61.502 or
12 46.61.504 or an equivalent local or out-of-state statute or
13 ordinance; or

14 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
15 46.61.500 or an equivalent local ordinance if the person is required
16 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
17 ignition interlock device on all vehicles operated by the person; or

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

27 (2) (~~(Calibration-)~~) Alcohol set point. Unless otherwise
28 specified by the court for a restriction imposed under subsection
29 (1)(e) of this section, the ignition interlock device shall (~~(be~~
30 ~~calibrated to prevent)~~) have an alcohol set point that prevents the
31 motor vehicle from being started when the breath sample provided has
32 an alcohol concentration of (~~(0.025)~~) 0.020 or more.

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

34 (a) Subsection (1)(a) of this section shall remain in effect
35 until:

36 (i) The court has authorized the removal of the device under RCW
37 10.21.055; or

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

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

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

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

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

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

12 The restriction of a person who is convicted of a violation of
13 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who
14 committed the offense while (~~a passenger~~) one or more passengers
15 under the age of sixteen (~~was~~) were in the vehicle shall be
16 extended for an additional (~~six-month~~) period as required by RCW
17 46.61.5055(6)(a).

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

20 (e) The period of restriction under (c) or (d) of this subsection
21 shall be extended by one hundred eighty days whenever the department
22 receives notice that the restricted person has been convicted under
23 RCW 46.20.740 or 46.20.750. If the period of restriction under (c) or
24 (d) of this subsection has been fulfilled and cannot be extended, the
25 department must add a new one hundred eighty-day restriction that is
26 imposed from the date of conviction and is subject to the
27 requirements for removal under 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. The department's determination
37 that a person is unable to operate an ignition interlock device must
38 be reasonable and be based upon good and substantial evidence. This
39 determination is subject to review by a court of competent

1 jurisdiction. The department may charge a person seeking a medical
2 exemption under this subsection a reasonable fee for the assessment.

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

8 (a) That there have been none of the following incidents in the
9 one hundred eighty consecutive days prior to the date of release:

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

15 ~~((b))~~ (ii) Failure to take any random test unless a review of
16 the digital image confirms that the vehicle was not occupied by the
17 driver at the time of the missed test;

18 ~~((c))~~ (iii) Failure to pass any random retest with a breath
19 alcohol concentration of ~~((0.025 or))~~ lower than 0.020 unless a
20 subsequent test performed within ten minutes registers a breath
21 alcohol concentration lower than ~~((0.025))~~ 0.020, and the digital
22 image confirms the same person provided both samples; ~~((or~~

23 ~~(d))~~ (iv) Failure of the person to appear at the ignition
24 interlock device vendor when required for maintenance, repair,
25 calibration, monitoring, inspection, or replacement of the device; or

26 (v) Removal of the ignition interlock device by a person other
27 than an ignition interlock technician certified by the Washington
28 state patrol; and

29 (b) That the ignition interlock device was inspected at the
30 conclusion of the one hundred eighty-day period by an ignition
31 interlock technician certified by the Washington state patrol and no
32 evidence was found that the device was tampered with in the manner
33 described in RCW 46.20.750.

34 (5) **Day-for-day credit.** (a) The time period during which a person
35 has an ignition interlock device installed in order to meet the
36 requirements of subsection (1)(b) of this section shall apply on a
37 day-for-day basis toward satisfying the period of time the ignition
38 interlock device restriction is imposed under subsection (1)(c) or
39 (d) of this section arising out of the same incident.

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

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

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

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

29 (7) **Ignition interlock device revolving account.** In addition to
30 any other costs associated with the use of an ignition interlock
31 device imposed on the person restricted under this section, the
32 person shall pay an additional fee of (~~twenty~~) twenty-one dollars
33 per month. Payments must be made directly to the ignition interlock
34 company. The company shall remit the additional fee to the department
35 to be deposited into the ignition interlock device revolving account,
36 except that the company may retain twenty-five cents per month of the
37 additional fee to cover the expenses associated with administering
38 the fee. The department may waive the monthly fee if the person is
39 indigent under RCW 10.101.010.

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

15 **Sec. 11.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each
16 amended to read as follows:

17 (1) The department shall attach or imprint a notation on the
18 driving record of any person restricted under RCW 46.20.720,
19 46.61.5055, or 10.05.140 stating that the person may operate only a
20 motor vehicle equipped with a functioning ignition interlock device.
21 The department shall determine the person's eligibility for licensing
22 based upon written verification by a company doing business in the
23 state that it has installed the required device on a vehicle owned or
24 operated by the person seeking reinstatement. If, based upon
25 notification from the interlock provider or otherwise, the department
26 determines that an ignition interlock required under this section is
27 no longer installed or functioning as required, the department shall
28 suspend the person's license or privilege to drive. Whenever the
29 license or driving privilege of any person is suspended or revoked as
30 a result of noncompliance with an ignition interlock requirement, the
31 suspension shall remain in effect until the person provides notice
32 issued by a company doing business in the state that a vehicle owned
33 or operated by the person is equipped with a functioning ignition
34 interlock device.

35 (2) It is a gross misdemeanor for a person with such a notation
36 on his or her driving record to operate a motor vehicle that is not
37 so equipped, unless the notation resulted from a restriction imposed
38 as a condition of release and the restriction has been released by
39 the court prior to driving. Any time a person is convicted under this

1 section, the court shall immediately notify the department for
2 purposes of RCW 46.20.720(3)(e).

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

6 **Sec. 12.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each
7 amended to read as follows:

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

11 (a) Tampers with the device or any components of the device, or
12 otherwise interferes with the proper functionality of the device, by
13 modifying, detaching, disconnecting, or otherwise disabling it to
14 allow the restricted driver to operate the vehicle;

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

18 (c) Has, directs, authorizes, or requests another person to
19 tamper with the device or any components of the device, or otherwise
20 interfere with the proper functionality of the device, by modifying,
21 detaching, disconnecting, or otherwise disabling it to allow the
22 restricted driver to operate the vehicle; or

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

26 (2) A person who knowingly assists another person who is
27 restricted to the use of a vehicle equipped with an ignition
28 interlock device to circumvent the device or any components of the
29 device, or otherwise interfere with the proper functionality of the
30 device, or to start and operate that vehicle is guilty of a gross
31 misdemeanor. The provisions of this subsection do not apply if the
32 starting of a motor vehicle, or the request to start a motor vehicle,
33 equipped with an ignition interlock device is done for the purpose of
34 safety or mechanical repair of the device or the vehicle and the
35 person subject to the court order does not operate the vehicle.

36 (3) Any sentence imposed for a violation of subsection (1) of
37 this section shall be served consecutively with any sentence imposed
38 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,
39 46.61.520(1)(a), or 46.61.522(1)(b).

1 (4) Any time a person is convicted under subsection (1) of this
2 section, the court shall immediately notify the department for
3 purposes of RCW 46.20.720(3)(e).

4 **Sec. 13.** RCW 46.55.113 and 2011 c 167 s 6 are each amended to
5 read as follows:

6 (1) Whenever the driver of a vehicle is arrested for a violation
7 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary
8 impoundment, pursuant to the terms and conditions of an applicable
9 local ordinance or state agency rule at the direction of a law
10 enforcement officer.

11 (2) In addition, a police officer may take custody of a vehicle,
12 at his or her discretion, and provide for its prompt removal to a
13 place of safety under any of the following circumstances:

14 (a) Whenever a police officer finds a vehicle standing upon the
15 roadway in violation of any of the provisions of RCW 46.61.560, the
16 officer may provide for the removal of the vehicle or require the
17 driver or other person in charge of the vehicle to move the vehicle
18 to a position off the roadway;

19 (b) Whenever a police officer finds a vehicle unattended upon a
20 highway where the vehicle constitutes an obstruction to traffic or
21 jeopardizes public safety;

22 (c) Whenever a police officer finds an unattended vehicle at the
23 scene of an accident or when the driver of a vehicle involved in an
24 accident is physically or mentally incapable of deciding upon steps
25 to be taken to protect his or her property;

26 (d) Whenever the driver of a vehicle is arrested and taken into
27 custody by a police officer;

28 (e) Whenever a police officer discovers a vehicle that the
29 officer determines to be a stolen vehicle;

30 (f) Whenever a vehicle without a special license plate, placard,
31 or decal indicating that the vehicle is being used to transport a
32 person with disabilities under RCW 46.19.010 is parked in a stall or
33 space clearly and conspicuously marked under RCW 46.61.581 which
34 space is provided on private property without charge or on public
35 property;

36 (g) Upon determining that a person is operating a motor vehicle
37 without a valid and, if required, a specially endorsed driver's
38 license or with a license that has been expired for ninety days or
39 more;

1 (h) When a vehicle is illegally occupying a truck, commercial
2 loading zone, restricted parking zone, bus, loading, hooded-meter,
3 taxi, street construction or maintenance, or other similar zone
4 where, by order of the director of transportation or chiefs of police
5 or fire or their designees, parking is limited to designated classes
6 of vehicles or is prohibited during certain hours, on designated days
7 or at all times, if the zone has been established with signage for at
8 least twenty-four hours and where the vehicle is interfering with the
9 proper and intended use of the zone. Signage must give notice to the
10 public that a vehicle will be removed if illegally parked in the
11 zone;

12 (i) When a vehicle with an expired registration of more than
13 forty-five days is parked on a public street;

14 (j) Upon determining that a person restricted to use of only a
15 motor vehicle equipped with a functioning ignition interlock device
16 is operating a motor vehicle that is not equipped with such a device
17 in violation of RCW 46.20.740(2).

18 (3) When an arrest is made for a violation of RCW 46.20.342, if
19 the vehicle is a commercial vehicle or farm transport vehicle and the
20 driver of the vehicle is not the owner of the vehicle, before the
21 summary impoundment directed under subsection (1) of this section,
22 the police officer shall attempt in a reasonable and timely manner to
23 contact the owner of the vehicle and may release the vehicle to the
24 owner if the owner is reasonably available, as long as the owner was
25 not in the vehicle at the time of the stop and arrest and the owner
26 has not received a prior release under this subsection or RCW
27 46.55.120(1) ~~((a))~~ (b) (ii).

28 (4) Nothing in this section may derogate from the powers of
29 police officers under the common law. For the purposes of this
30 section, a place of safety may include the business location of a
31 registered tow truck operator.

32 (5) For purposes of this section "farm transport vehicle" means a
33 motor vehicle owned by a farmer and that is being actively used in
34 the transportation of the farmer's or another farmer's farm, orchard,
35 aquatic farm, or dairy products, including livestock and plant or
36 animal wastes, from point of production to market or disposal, or
37 supplies or commodities to be used on the farm, orchard, aquatic
38 farm, or dairy, and that has a gross vehicle weight rating of 7,258
39 kilograms (16,001 pounds) or more.

1 **Sec. 14.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to
2 read as follows:

3 (1) Any person who drives any vehicle in willful or wanton
4 disregard for the safety of persons or property is guilty of reckless
5 driving. Violation of the provisions of this section is a gross
6 misdemeanor punishable by imprisonment for up to three hundred sixty-
7 four days and by a fine of not more than five thousand dollars.

8 (2)(a) Subject to (b) of this subsection, the license or permit
9 to drive or any nonresident privilege of any person convicted of
10 reckless driving shall be suspended by the department for not less
11 than thirty days.

12 (b) When a reckless driving conviction is a result of a charge
13 that was originally filed as a violation of RCW 46.61.502 or
14 46.61.504, or an equivalent local ordinance, the department shall
15 grant credit on a day-for-day basis for any portion of a suspension,
16 revocation, or denial already served under an administrative action
17 arising out of the same incident. In the case of a person whose day-
18 for-day credit is for a period equal to or greater than the period of
19 suspension required under this section, the department shall provide
20 notice of full credit, shall provide for no further suspension under
21 this section, and shall impose no additional reissue fees for this
22 credit. During any period of suspension, revocation, or denial due to
23 a conviction for reckless driving as the result of a charge
24 originally filed as a violation of RCW 46.61.502 or 46.61.504, any
25 person who has obtained an ignition interlock driver's license under
26 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the
27 provision of the ignition interlock driver's license without
28 obtaining a separate temporary restricted driver's license under RCW
29 46.20.391.

30 (3)(a) Except as provided under (b) of this subsection, a person
31 convicted of reckless driving who has one or more prior offenses as
32 defined in RCW 46.61.5055(14) within seven years shall be required,
33 under RCW 46.20.720, to install an ignition interlock device on all
34 vehicles operated by the person if the conviction is the result of a
35 charge that was originally filed as a violation of RCW 46.61.502,
36 46.61.504, or an equivalent local ordinance.

37 (b) A person convicted of reckless driving shall be required,
38 under RCW 46.20.720, to install an ignition interlock device on all
39 vehicles operated by the person if the conviction is the result of a
40 charge that was originally filed as a violation of RCW 46.61.520

1 committed while under the influence of intoxicating liquor or any
2 drug or RCW 46.61.522 committed while under the influence of
3 intoxicating liquor or any drug.

4 **Sec. 15.** RCW 46.61.5055 and 2018 c 201 s 9009 are each amended
5 to read as follows:

6 (1) **No prior offenses in seven years.** Except as provided in RCW
7 46.61.502(6) or 46.61.504(6), a person who is convicted of a
8 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
9 within seven years shall be punished as follows:

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

15 (i) By imprisonment for not less than (~~one day~~) twenty-four
16 consecutive hours nor more than three hundred sixty-four days.
17 (~~Twenty-four consecutive hours of the imprisonment may not be~~
18 ~~suspended unless the court finds that the imposition of this~~
19 ~~mandatory minimum sentence would impose a substantial risk to the~~
20 ~~offender's physical or mental well-being. Whenever the mandatory~~
21 ~~minimum sentence is suspended, the court shall state in writing the~~
22 ~~reason for granting the suspension and the facts upon which the~~
23 ~~suspension is based.)) In lieu of the mandatory minimum term of~~

24 imprisonment required under this subsection (1)(a)(i), the court, in
25 its discretion, may order not less than fifteen days of electronic
26 home monitoring or a ninety-day period of 24/7 sobriety program
27 monitoring. The court may consider the offender's pretrial 24/7
28 sobriety program monitoring as fulfilling a portion of posttrial
29 sentencing. The offender shall pay the cost of electronic home
30 monitoring. The county or municipality in which the penalty is being
31 imposed shall determine the cost. The court may also require the
32 offender's electronic home monitoring device or other separate
33 alcohol monitoring device to include an alcohol detection
34 breathalyzer, and the court may restrict the amount of alcohol the
35 offender may consume during the time the offender is on electronic
36 home monitoring; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (a) The person has three or more prior offenses within ten years;
21 or

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

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

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

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

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

30 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
31 require any person convicted of a violation of RCW 46.61.502 or
32 46.61.504 or an equivalent local ordinance to comply with the rules
33 and requirements of the department regarding the installation and use
34 of a functioning ignition interlock device installed on all motor
35 vehicles operated by the person.

36 (b) **Monitoring devices.** If the court orders that a person refrain
37 from consuming any alcohol, the court may order the person to submit
38 to alcohol monitoring through an alcohol detection breathalyzer
39 device, transdermal sensor device, or other technology designed to
40 detect alcohol in a person's system. The person shall pay for the

1 cost of the monitoring, unless the court specifies that the cost of
2 monitoring will be paid with funds that are available from an
3 alternative source identified by the court. The county or
4 municipality where the penalty is being imposed shall determine the
5 cost.

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

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

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

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

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

23 (a) Order the use of an ignition interlock or other device for an
24 additional ((six)) twelve months for each passenger under the age of
25 sixteen when the person is subject to the penalties under subsection
26 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an
27 ignition interlock device for an additional eighteen months for each
28 passenger under the age of sixteen when the person is subject to the
29 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this
30 section;

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

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

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

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

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

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

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

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

33 (8) **Treatment and information school.** An offender punishable
34 under this section is subject to the ~~((alcohol))~~ substance use
35 disorder assessment and treatment provisions of RCW 46.61.5056.

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

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

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

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

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

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

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

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

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

38 ~~((e))~~ (iii) **Penalty for refusing to take test.** If by reason of
39 the person's refusal to take a test offered under RCW 46.20.308,

1 there is no test result indicating the person's alcohol
2 concentration:

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

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

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

10 (b)(i) The department shall grant credit on a day-for-day basis
11 for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~
12 ~~served))~~ imposed under this subsection (9) for any portion of a
13 suspension, revocation, or denial ~~((imposed))~~ already served under
14 RCW 46.20.3101 arising out of the same incident.

15 (ii) If a person has already served a suspension, revocation, or
16 denial under RCW 46.20.3101 for a period equal to or greater than the
17 period imposed under this subsection (9), the department shall
18 provide notice of full credit, shall provide for no further
19 suspension or revocation under this subsection provided the person
20 has completed the requirements under RCW 46.20.311 and paid the
21 probationary license fee under RCW 46.20.355 by the date specified in
22 the notice under RCW 46.20.245, and shall impose no additional
23 reissue fees for this credit.

24 (c) Upon receipt of a notice from the court under RCW 36.28A.390
25 that a participant has been removed from a 24/7 sobriety program, the
26 department must resume any suspension, revocation, or denial that had
27 been terminated early under this subsection due to participation in
28 the program, granting credit on a day-for-day basis for any portion
29 of a suspension, revocation, or denial already served under RCW
30 46.20.3101 or this section arising out of the same incident.

31 (d) Upon its own motion or upon motion by a person, a court may
32 find, on the record, that notice to the department under RCW
33 46.20.270 has been delayed for three years or more as a result of a
34 clerical or court error. If so, the court may order that the person's
35 license, permit, or nonresident privilege shall not be revoked,
36 suspended, or denied for that offense. The court shall send notice of
37 the finding and order to the department and to the person. Upon
38 receipt of the notice from the court, the department shall not
39 revoke, suspend, or deny the license, permit, or nonresident
40 privilege of the person for that offense.

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

4 **(10) Probation of driving privilege.** After expiration of any
5 period of suspension, revocation, or denial of the offender's
6 license, permit, or privilege to drive required by this section, the
7 department shall place the offender's driving privilege in
8 probationary status pursuant to RCW 46.20.355.

9 **(11) Conditions of probation.** (a) In addition to any
10 nonsuspendable and nondeferrable jail sentence required by this
11 section, whenever the court imposes up to three hundred sixty-four
12 days in jail, the court shall also suspend but shall not defer a
13 period of confinement for a period not exceeding five years. The
14 court shall impose conditions of probation that include: (i) Not
15 driving a motor vehicle within this state without a valid license to
16 drive; (ii) not driving a motor vehicle within this state without
17 proof of liability insurance or other financial responsibility for
18 the future pursuant to RCW 46.30.020; (iii) not driving or being in
19 physical control of a motor vehicle within this state while having an
20 alcohol concentration of 0.08 or more or a THC concentration of 5.00
21 nanograms per milliliter of whole blood or higher, within two hours
22 after driving; (iv) not refusing to submit to a test of his or her
23 breath or blood to determine alcohol or drug concentration upon
24 request of a law enforcement officer who has reasonable grounds to
25 believe the person was driving or was in actual physical control of a
26 motor vehicle within this state while under the influence of
27 intoxicating liquor or drug; and (v) not driving a motor vehicle in
28 this state without a functioning ignition interlock device as
29 required by the department under RCW 46.20.720. The court may impose
30 conditions of probation that include nonrepetition, installation of
31 an ignition interlock device on the probationer's motor vehicle,
32 ~~((alcohol or drug))~~ substance use disorder treatment, supervised
33 probation, or other conditions that may be appropriate. The sentence
34 may be imposed in whole or in part upon violation of a condition of
35 probation during the suspension period.

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

1 (c) For each incident involving a violation of a mandatory
2 condition of probation imposed under this subsection, the license,
3 permit, or privilege to drive of the person shall be suspended by the
4 court for thirty days or, if such license, permit, or privilege to
5 drive already is suspended, revoked, or denied at the time the
6 finding of probation violation is made, the suspension, revocation,
7 or denial then in effect shall be extended by thirty days. The court
8 shall notify the department of any suspension, revocation, or denial
9 or any extension of a suspension, revocation, or denial imposed under
10 this subsection.

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

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

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

20 (c) The court determines that there is reason to believe that the
21 offender would violate the conditions of the electronic home
22 monitoring penalty.

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

30 Whenever the combination of jail time and electronic home
31 monitoring or alternative sentence would exceed three hundred sixty-
32 four days, the offender shall serve the jail portion of the sentence
33 first, and the electronic home monitoring or alternative portion of
34 the sentence shall be reduced so that the combination does not exceed
35 three hundred sixty-four days.

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

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

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

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

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

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

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

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

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

19 (vii) A conviction for a violation of RCW 47.68.220 or an
20 equivalent local ordinance committed in a careless or reckless manner
21 if the conviction is the result of a charge that was originally filed
22 as a violation of RCW 47.68.220 or an equivalent local ordinance
23 while under the influence of intoxicating liquor or any drug;

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

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

28 (x) A conviction for a violation of RCW 46.61.520 committed while
29 under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.520 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 46.61.520 committed while under the influence of
34 intoxicating liquor or any drug;

35 (xi) A conviction for a violation of RCW 46.61.522 committed
36 while under the influence of intoxicating liquor or any drug, or a
37 conviction for a violation of RCW 46.61.522 committed in a reckless
38 manner or with the disregard for the safety of others if the
39 conviction is the result of a charge that was originally filed as a

1 violation of RCW 46.61.522 committed while under the influence of
2 intoxicating liquor or any drug;

3 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
4 or 9A.36.050 or an equivalent local ordinance, if the conviction is
5 the result of a charge that was originally filed as a violation of
6 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
7 RCW 46.61.520 or 46.61.522;

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

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

14 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
15 prosecution for a violation of RCW 46.61.5249, or an equivalent local
16 ordinance, if the charge under which the deferred prosecution was
17 granted 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;

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

26 (xvii) A deferred sentence imposed in a prosecution for a
27 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
28 equivalent local ordinance, if the charge under which the deferred
29 sentence was imposed was originally filed as a violation of RCW
30 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
31 violation of RCW 46.61.520 or 46.61.522;

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

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

38 (c) "Within seven years" means that the arrest for a prior
39 offense occurred within seven years before or after the arrest for
40 the current offense; and

1 (d) "Within ten years" means that the arrest for a prior offense
2 occurred within ten years before or after the arrest for the current
3 offense.

4 (15) All fines imposed by this section apply to adult offenders
5 only.

6 **Sec. 16.** RCW 46.61.5056 and 2018 c 201 s 9010 are each amended
7 to read as follows:

8 (1) A person subject to (~~alcohol~~) substance use disorder
9 assessment and treatment under RCW 46.61.5055 shall be required by
10 the court to complete a course in an alcohol and drug information
11 school licensed or certified by the department of health or to
12 complete more intensive treatment in a substance use disorder
13 treatment program licensed or certified by the department of health,
14 as determined by the court. The court shall notify the department of
15 licensing whenever it orders a person to complete a course or
16 treatment program under this section.

17 (2) A diagnostic evaluation and treatment recommendation shall be
18 prepared under the direction of the court by a substance use disorder
19 treatment program licensed or certified by the department of health
20 or a qualified probation department approved by the department of
21 social and health services. A copy of the report shall be forwarded
22 to the court and the department of licensing. Based on the diagnostic
23 evaluation, the court shall determine whether the person shall be
24 required to complete a course in an alcohol and drug information
25 school licensed or certified by the department of health or more
26 intensive treatment in an approved substance use disorder treatment
27 program licensed or certified by the department of health.

28 (3) Standards for approval for (~~alcohol~~) substance use disorder
29 treatment programs shall be prescribed by the department of health.
30 The department of health shall periodically review the costs of
31 alcohol and drug information schools and treatment programs.

32 (4) Any agency that provides treatment ordered under RCW
33 46.61.5055, shall immediately report to the appropriate probation
34 department where applicable, otherwise to the court, and to the
35 department of licensing any noncompliance by a person with the
36 conditions of his or her ordered treatment. The court shall notify
37 the department of licensing and the department of health of any
38 failure by an agency to so report noncompliance. Any agency with
39 knowledge of noncompliance that fails to so report shall be fined two

1 hundred fifty dollars by the department of health. Upon three such
2 failures by an agency within one year, the department of health shall
3 revoke the agency's license or certification under this section.

4 (5) The department of licensing and the department of health may
5 adopt such rules as are necessary to carry out this section.

6 **Sec. 17.** RCW 46.61.524 and 2008 c 231 s 46 are each amended to
7 read as follows:

8 As provided for under RCW 46.20.285, the department shall revoke
9 the license, permit to drive, or a nonresident privilege of a person
10 convicted of vehicular homicide under RCW 46.61.520 or vehicular
11 assault under RCW 46.61.522. The department shall determine the
12 eligibility of a person convicted of vehicular homicide under RCW
13 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to
14 receive a license based upon the report provided by the designated
15 (~~alcoholism~~) substance use disorder treatment facility or probation
16 department designated pursuant to RCW 9.94A.703(4)(b), and shall deny
17 reinstatement until satisfactory progress in an approved program has
18 been established and the person is otherwise qualified.

19 **Sec. 18.** RCW 46.68.041 and 2004 c 95 s 15 are each amended to
20 read as follows:

21 (1) Except as provided in subsection (2) of this section, the
22 department shall forward all funds accruing under the provisions of
23 chapter 46.20 RCW together with a proper identifying, detailed report
24 to the state treasurer who shall deposit such moneys to the credit of
25 the highway safety fund.

26 (2) (~~Sixty-three~~) Fifty-six percent of each fee collected by
27 the department under RCW 46.20.311 (1)(e)(ii), (2)(b)(ii), and (3)(b)
28 shall be deposited in the impaired driving safety account.

29 NEW SECTION. **Sec. 19.** RCW 43.43.3951 (Ignition interlock
30 devices—Limited exemption for companies not using devices employing
31 fuel cell technology) and 2010 c 268 s 3 are each repealed.

32 NEW SECTION. **Sec. 20.** Sections 2, 3, 5 through 12, and 14
33 through 18 of this act take effect January 1, 2022.

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