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HOUSE BILL 1493

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State of Washington

68th Legislature

2023 Regular Session

By Representative Goodman

Read first time 01/23/23. Referred to Committee on Community Safety, Justice, & Reentry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (22) "Drug offense" means:

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

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

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

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

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

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

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

1 (25) "Escape" means:

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

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

11 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) Assault in the second degree;

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

24 (d) Child molestation in the second degree;

25 (e) Controlled substance homicide;

26 (f) Extortion in the first degree;

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

28 (h) Indecent liberties;

29 (i) Kidnapping in the second degree;

30 (j) Leading organized crime;

31 (k) Manslaughter in the first degree;

32 (l) Manslaughter in the second degree;

33 (m) Promoting prostitution in the first degree;

34 (n) Rape in the third degree;

35 (o) Sexual exploitation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (45) "Serious traffic offense" means:

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

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

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

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

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

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

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

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

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

28 (ii) Homicide by abuse;

29 (iii) Murder in the second degree;

30 (iv) Manslaughter in the first degree;

31 (v) Assault in the first degree;

32 (vi) Kidnapping in the first degree;

33 (vii) Rape in the first degree;

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

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

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

40 (47) "Sex offense" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (58) "Violent offense" means:

31 (a) Any of the following felonies:

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

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

36 (iii) Manslaughter in the first degree;

37 (iv) Manslaughter in the second degree;

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

39 (vi) Kidnapping in the second degree;

40 (vii) Arson in the second degree;

1 (viii) Assault in the second degree;

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

3 (x) Extortion in the first degree;

4 (xi) Robbery in the second degree;

5 (xii) Drive-by shooting;

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

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

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

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

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

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

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

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

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

1 has been accepted for deferred prosecution. A copy of the treatment  
2 plan shall be filed with the court. If the charge be one that an  
3 abstract of the docket showing the charge, the date of the violation  
4 for which the charge was made, and the date of petitioner's  
5 acceptance is required to be sent to the department of licensing, an  
6 abstract shall be sent, and the department of licensing shall make an  
7 entry of the charge and of the petitioner's acceptance for deferred  
8 prosecution on the department's driving record of the petitioner. The  
9 entry is not a conviction for purposes of Title 46 RCW. Upon receipt  
10 of the abstract of the docket, the department shall issue notice that  
11 30 days after receipt, the petitioner must apply for a probationary  
12 license in accordance with RCW 46.20.355, and the petitioner's  
13 driver's license shall be on probationary status for five years from  
14 the date of the violation that gave rise to the charge. The  
15 department shall maintain the record for (~~ten~~) 10 years from date  
16 of entry of the order granting deferred prosecution.

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

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

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

37 (3) Following receipt of an abstract indicating a deferred  
38 prosecution has been granted under RCW 10.05.060, or upon  
39 reinstatement or reissuance of a driver's license suspended or

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

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

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

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

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

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

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

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

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

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

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

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

39 (3) Upon receipt of evidence that a holder of an ignition  
40 interlock driver's license granted under this subsection no longer

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

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

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

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

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

1 department shall adopt rules to provide monetary assistance according  
2 to greatest need and when funds are available.

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

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

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

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

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

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

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

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

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

36 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance  
37 if the person would be required under RCW 46.61.5249(4) or  
38 46.61.500(3) (a) or (b) to install an ignition interlock device on  
39 all vehicles operated by the person in the event of a conviction;

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

5 (i) Due to a conviction of a violation of RCW 46.61.502 or  
6 46.61.504 or an equivalent local or out-of-state statute or  
7 ordinance; or

8 (ii) Due to a conviction of a violation of RCW 46.61.5249 or  
9 46.61.500 or an equivalent local ordinance if the person is required  
10 under RCW 46.61.5249(4) or 46.61.500(3)(a) or (b) to install an  
11 ignition interlock device on all vehicles operated by the person; or

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

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

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

27 (a) Subsection (1)(a) of this section shall remain in effect  
28 until:

29 (i) The court has authorized the removal of the device under RCW  
30 10.21.055; or

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

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

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

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

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

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

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

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

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

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

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

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

1 and substantial evidence. This determination is subject to review by  
2 a court of competent jurisdiction. The department may charge a person  
3 seeking a medical exemption under this subsection a reasonable fee  
4 for the assessment.

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

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

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

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

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

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

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

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

37 (5) **Day-for-day credit.** (a) The time period during which a person  
38 has an ignition interlock device installed in order to meet the  
39 requirements of subsection (1)(b) of this section shall apply on a  
40 day-for-day basis toward satisfying the period of time the ignition

1 interlock device restriction is imposed under subsection (1)(c) or  
2 (d) of this section arising out of the same incident.

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

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

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

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

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

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

1 except that the company may retain (~~twenty-five~~) 25 cents per month  
2 of the additional fee to cover the expenses associated with  
3 administering the fee. The department may waive the monthly fee if  
4 the person is indigent under RCW 10.101.010.

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

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

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

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

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

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

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

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

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

25 (i) The total number of vehicles involved;

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

27 (iii) Whether the vehicles were occupied at the time of the  
28 accident; and

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

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

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

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

38 (2) **Release of abstract of driving record.** Unless otherwise  
39 required in this section, the release of an abstract does not require

1 a signed statement by the subject of the abstract. An abstract of a  
2 person's driving record may be furnished to the following persons or  
3 entities:

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

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

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

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

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

38 (iv) Release of an abstract of the driving record of an employee  
39 or prospective employee requires a statement signed by: (A) The  
40 employee or prospective employee that authorizes the release of the

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

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

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

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

37 (ii) Release of an abstract of the driving record of a  
38 prospective volunteer requires a statement signed by: (A) The  
39 prospective volunteer that authorizes the release of the record; and  
40 (B) the volunteer organization attesting that the information is

1 necessary for purposes related to driving by the individual at the  
2 direction of the volunteer organization. If the volunteer  
3 organization authorizes an agent to obtain this information on their  
4 behalf, this must be noted in the statement.

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

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

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

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

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

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

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

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

32 (C) Exclude any deferred prosecution under RCW 10.05.060, except  
33 that if a person is removed from a deferred prosecution under RCW  
34 10.05.090, the abstract must show the deferred prosecution as well as  
35 the removal.

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

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

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

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

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

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

36 (h) **State colleges, universities, or agencies, or units of local**  
37 **government.** An abstract of the full driving record maintained by the  
38 department may be furnished to (i) state colleges, universities, or  
39 agencies for employment and risk management purposes or (ii) units of  
40 local government authorized to self-insure under RCW 48.62.031, or

1 their agents, for employment and risk management purposes. "Unit of  
2 local government" includes an insurance pool established under RCW  
3 48.62.031.

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

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

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

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

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

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

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

11           (b) The department may provide reviewing services to the  
12 following entities:

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

14           (ii) Transit authorities for current vanpool drivers, or their  
15 agents;

16           (iii) Insurance carriers for current policyholders, or their  
17 agents;

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

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

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

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

29           (b) The following release of records to third parties are hereby  
30 authorized:

31           (i) Employers may divulge driving records to regulatory bodies,  
32 as defined by the department by rule, such as the United States  
33 department of transportation and the federal motor carrier safety  
34 administration.

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

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

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

6 (i) Fifty percent must be deposited in the highway safety fund;  
7 and

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

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

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

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

20 (b) Any intentional violation of this section is a class C  
21 felony.

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

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

28 (1) **No prior offenses in seven years.** Except as provided in RCW  
29 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
30 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
31 within seven years shall be punished as follows:

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

37 (i) By imprisonment for not less than (~~twenty-four~~) 24  
38 consecutive hours nor more than (~~three hundred sixty-four~~) 364  
39 days. In lieu of the mandatory minimum term of imprisonment required

1 under this subsection (1)(a)(i), the court, in its discretion, may  
2 order not less than (~~(fifteen)~~) 15 days of electronic home monitoring  
3 or a (~~(ninety-day)~~) 90-day period of 24/7 sobriety program  
4 monitoring. The court may consider the offender's pretrial 24/7  
5 sobriety program monitoring as fulfilling a portion of posttrial  
6 sentencing. The offender shall pay the cost of electronic home  
7 monitoring. The county or municipality in which the penalty is being  
8 imposed shall determine the cost. The court may also require the  
9 offender's electronic home monitoring device or other separate  
10 alcohol monitoring device to include an alcohol detection  
11 breathalyzer, and the court may restrict the amount of alcohol the  
12 offender may consume during the time the offender is on electronic  
13 home monitoring; and

14 (ii) By a fine of not less than (~~(three hundred fifty dollars)~~)  
15 \$350 nor more than (~~(five thousand dollars)~~) \$5,000. (~~(Three hundred~~  
16 ~~fifty dollars)~~) \$350 of the fine may not be suspended unless the  
17 court finds the offender to be indigent; or

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

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

39 (ii) By a fine of not less than (~~(five hundred dollars)~~) \$500 nor  
40 more than (~~(five thousand dollars)~~) \$5,000. (~~(Five hundred dollars)~~)

1 \$500 of the fine may not be suspended unless the court finds the  
2 offender to be indigent.

3 (2) **One prior offense in seven years.** Except as provided in RCW  
4 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
5 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
6 within seven years shall be punished as follows:

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

12 (i) By imprisonment for not less than (~~(thirty)~~) 30 days nor more  
13 than (~~(three hundred sixty-four)~~) 364 days and (~~(sixty)~~) 60 days of  
14 electronic home monitoring. Thirty days of imprisonment and (~~(sixty)~~)  
15 60 days of electronic home monitoring may not be suspended or  
16 converted unless the court finds that the imposition of this  
17 mandatory minimum sentence would impose a substantial risk to the  
18 offender's physical or mental well-being. If the offender shows that  
19 the imposition of this mandatory minimum sentence would impose a  
20 substantial risk to the offender's physical or mental well-being, in  
21 lieu of the mandatory term of imprisonment and electronic home  
22 monitoring under this subsection (2)(a)(i), the court may order a  
23 minimum of either (~~(one hundred eighty)~~) 180 days of electronic home  
24 monitoring or a (~~(one hundred twenty-day)~~) 120-day period of 24/7  
25 sobriety program monitoring pursuant to RCW 36.28A.300 through  
26 36.28A.390. Whenever the mandatory minimum sentence is suspended or  
27 converted, the court shall state in writing the reason for granting  
28 the suspension or conversion and the facts upon which the suspension  
29 or conversion is based. The court may consider the offender's  
30 pretrial 24/7 sobriety program monitoring as fulfilling a portion of  
31 posttrial sentencing. The court shall order an expanded substance use  
32 disorder assessment and treatment, if deemed appropriate by the  
33 assessment. The offender shall pay for the cost of the electronic  
34 monitoring. The county or municipality where the penalty is being  
35 imposed shall determine the cost. The court may also require the  
36 offender's electronic home monitoring device include an alcohol  
37 detection breathalyzer or other separate alcohol monitoring device,  
38 and may restrict the amount of alcohol the offender may consume  
39 during the time the offender is on electronic home monitoring; and

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

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

10 (i) By imprisonment for not less than (~~(forty-five)~~) 45 days nor  
11 more than (~~(three hundred sixty-four)~~) 364 days and (~~(ninety)~~) 90  
12 days of electronic home monitoring. Forty-five days of imprisonment  
13 and (~~(ninety)~~) 90 days of electronic home monitoring may not be  
14 suspended or converted unless the court finds that the imposition of  
15 this mandatory minimum sentence would impose a substantial risk to  
16 the offender's physical or mental well-being. If the offender shows  
17 that the imposition of this mandatory minimum sentence would impose a  
18 substantial risk to the offender's physical or mental well-being, in  
19 lieu of the mandatory minimum term of imprisonment and electronic  
20 home monitoring under this subsection (2)(b)(i), the court may order  
21 a minimum of either six months of electronic home monitoring or a  
22 (~~(one hundred twenty-day)~~) 120-day period of 24/7 sobriety program  
23 monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever  
24 the mandatory minimum sentence is suspended or converted, the court  
25 shall state in writing the reason for granting the suspension or  
26 conversion and the facts upon which the suspension or conversion is  
27 based. The court may consider the offender's pretrial 24/7 sobriety  
28 program monitoring as fulfilling a portion of posttrial sentencing.  
29 The court shall order an expanded substance use disorder assessment  
30 and treatment, if deemed appropriate by the assessment. The offender  
31 shall pay for the cost of the electronic monitoring. The county or  
32 municipality where the penalty is being imposed shall determine the  
33 cost. The court may also require the offender's electronic home  
34 monitoring device include an alcohol detection breathalyzer or other  
35 separate alcohol monitoring device, and may restrict the amount of  
36 alcohol the offender may consume during the time the offender is on  
37 electronic home monitoring; and

38 (ii) By a fine of not less than (~~(seven hundred fifty dollars)~~)  
39 \$750 nor more than (~~(five thousand dollars)~~) \$5,000. (~~(Seven hundred~~

1 ~~fifty dollars~~) \$750 of the fine may not be suspended unless the  
2 court finds the offender to be indigent.

3 (3) **Two prior offenses in seven years.** Except as provided in RCW  
4 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
5 violation of RCW 46.61.502 or 46.61.504 and who has two prior  
6 offenses within seven years shall be punished as follows:

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

12 (i) By imprisonment for not less than (~~ninety~~) 90 days nor more  
13 than (~~three hundred sixty-four~~) 364 days, if available in that  
14 county or city, a six-month period of 24/7 sobriety program  
15 monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and (~~one~~  
16 ~~hundred twenty~~) 120 days of electronic home monitoring. Ninety days  
17 of imprisonment and (~~one hundred twenty~~) 120 days of electronic  
18 home monitoring may not be suspended or converted unless the court  
19 finds that the imposition of this mandatory minimum sentence would  
20 impose a substantial risk to the offender's physical or mental well-  
21 being. If the offender shows that the imposition of this mandatory  
22 minimum sentence would impose a substantial risk to the offender's  
23 physical or mental well-being, in lieu of the mandatory minimum term  
24 of (~~ninety~~) 90 days of imprisonment and (~~one hundred twenty~~) 120  
25 days of electronic home monitoring, the court may order (~~three~~  
26 ~~hundred sixty~~) 360 days of electronic home monitoring or a (~~three~~  
27 ~~hundred sixty-day~~) 360-day period of 24/7 sobriety monitoring  
28 pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory  
29 minimum sentence is suspended or converted, the court shall state in  
30 writing the reason for granting the suspension or conversion and the  
31 facts upon which the suspension or conversion is based. The court  
32 shall order an expanded substance use disorder assessment and  
33 treatment, if deemed appropriate by the assessment. The offender  
34 shall pay for the cost of the electronic monitoring. The county or  
35 municipality where the penalty is being imposed shall determine the  
36 cost. The court may also require the offender's electronic home  
37 monitoring device include an alcohol detection breathalyzer or other  
38 separate alcohol monitoring device, and may restrict the amount of  
39 alcohol the offender may consume during the time the offender is on  
40 electronic home monitoring; and

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

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

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

39 (ii) By a fine of not less than (~~one thousand five hundred~~  
40 ~~dollars~~) \$1,500 nor more than (~~five thousand dollars~~) \$5,000.

1 ((One thousand five hundred)) \$1,500 dollars of the fine may not be  
2 suspended unless the court finds the offender to be indigent.

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

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

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

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

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

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

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

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

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

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

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

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

40 or

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

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

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

17 (b) In any case in which the person has no prior offenses within  
18 seven years, and except as provided in RCW 46.61.502(6) or  
19 46.61.504(6), order an additional (~~twenty-four~~) 24 hours of  
20 imprisonment to be served consecutively for each passenger under the  
21 age of (~~sixteen~~) 16, and a fine of not less than (~~one-thousand~~  
22 ~~dollars~~) \$1,000 and not more than (~~five-thousand-dollars~~) \$5,000  
23 for each passenger under the age of (~~sixteen~~) 16. (~~One-thousand~~  
24 ~~dollars~~) \$1,000 of the fine for each passenger under the age of  
25 (~~sixteen~~) 16 may not be suspended unless the court finds the  
26 offender to be indigent;

27 (c) In any case in which the person has one prior offense within  
28 seven years, and except as provided in RCW 46.61.502(6) or  
29 46.61.504(6), order an additional five days of imprisonment to be  
30 served consecutively for each passenger under the age of (~~sixteen~~)  
31 16, and a fine of not less than (~~two-thousand-dollars~~) \$2,000 and  
32 not more than (~~five-thousand-dollars~~) \$5,000 for each passenger  
33 under the age of (~~sixteen~~) 16. One thousand dollars of the fine for  
34 each passenger under the age of (~~sixteen~~) 16 may not be suspended  
35 unless the court finds the offender to be indigent;

36 (d) In any case in which the person has two prior offenses within  
37 seven years, and except as provided in RCW 46.61.502(6) or  
38 46.61.504(6), order an additional ten days of imprisonment to be  
39 served consecutively for each passenger under the age of (~~sixteen~~)  
40 16, and a fine of not less than (~~three-thousand-dollars~~) \$3,000 and

1 not more than (~~ten thousand dollars~~) \$10,000 for each passenger  
2 under the age of (~~sixteen~~) 16. (~~One thousand dollars~~) \$1,000 of  
3 the fine for each passenger under the age of (~~sixteen~~) 16 may not  
4 be suspended unless the court finds the offender to be indigent.

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

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

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

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

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

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

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

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

31 (A) Where there has been no prior offense within seven years, be  
32 suspended or denied by the department for (~~ninety~~) 90 days or until  
33 the person is evaluated by a substance use disorder agency or  
34 probation department pursuant to RCW 46.20.311 and the person  
35 completes or is enrolled in a (~~ninety-day~~) 90-day period of 24/7  
36 sobriety program monitoring. In no circumstances shall the license  
37 suspension be for fewer than two days;

38 (B) Where there has been one prior offense within seven years, be  
39 revoked or denied by the department for two years or until the person  
40 is evaluated by a substance use disorder agency or probation

1 department pursuant to RCW 46.20.311 and the person completes or is  
2 enrolled in a six-month period of 24/7 sobriety program monitoring.  
3 In no circumstances shall the license suspension be for less than one  
4 year; or

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

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

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

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

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

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

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

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

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

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

33 (ii) If a person has already served a suspension, revocation, or  
34 denial under RCW 46.20.3101 for a period equal to or greater than the  
35 period imposed under this subsection (9), the department shall  
36 provide notice of full credit, shall provide for no further  
37 suspension or revocation under this subsection provided the person  
38 has completed the requirements under RCW 46.20.311 and paid the  
39 probationary license fee under RCW 46.20.355 by the date specified in

1 the notice under RCW 46.20.245, and shall impose no additional  
2 reissue fees for this credit.

3 (c) Upon receipt of a notice from the court under RCW 36.28A.390  
4 that a participant has been removed from a 24/7 sobriety program, the  
5 department must resume any suspension, revocation, or denial that had  
6 been terminated early under this subsection due to participation in  
7 the program, granting credit on a day-for-day basis for any portion  
8 of a suspension, revocation, or denial already served under RCW  
9 46.20.3101 or this section arising out of the same incident.

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

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

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

28 (11) **Conditions of probation.** (a) In addition to any  
29 nonsuspendable and nondeferrable jail sentence required by this  
30 section, whenever the court imposes up to (~~three hundred sixty~~  
31 ~~four~~) 364 days in jail, the court shall also suspend but shall not  
32 defer a period of confinement for a period not exceeding five years.  
33 The court shall impose conditions of probation that include: (i) Not  
34 driving a motor vehicle within this state without a valid license to  
35 drive; (ii) not driving a motor vehicle within this state without  
36 proof of liability insurance or other financial responsibility for  
37 the future pursuant to RCW 46.30.020; (iii) not driving or being in  
38 physical control of a motor vehicle within this state while having an  
39 alcohol concentration of 0.08 or more or a THC concentration of 5.00  
40 nanograms per milliliter of whole blood or higher, within two hours

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

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

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

31 (ii) For each incident involving a violation of RCW  
32 46.20.342(1)(c), the court has discretion not to impose a suspension  
33 when the person provides the court with proof that the violation has  
34 been cured within 30 days. The court is not required to notify the  
35 department of the violation unless it is not cured within 30 days.

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

38 (a) The offender does not have a dwelling, telephone service, or  
39 any other necessity to operate an electronic home monitoring system.  
40 However, if a court determines that an alcohol monitoring device

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

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

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

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

15 Whenever the combination of jail time and electronic home  
16 monitoring or alternative sentence would exceed (~~three hundred~~  
17 ~~sixty-four~~) 364 days, the offender shall serve the jail portion of  
18 the sentence first, and the electronic home monitoring or alternative  
19 portion of the sentence shall be reduced so that the combination does  
20 not exceed (~~three hundred sixty-four~~) 364 days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
39 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
40 ordinance, if the charge under which the deferred prosecution was

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

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

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

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

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

22 (c) "Within seven years" means that the arrest for a prior  
23 offense occurred within seven years before or after the arrest for  
24 the current offense; and

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

28 (15) All fines imposed by this section apply to adult offenders  
29 only.

30 NEW SECTION. **Sec. 9.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

--- END ---