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ENGROSSED SUBSTITUTE HOUSE BILL 1493

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State of Washington

68th Legislature

2023 Regular Session

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

READ FIRST TIME 02/17/23.

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

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 (c) This definition applies for the purpose of a personal  
26 driver's license only and does not apply to violations related to a  
27 commercial motor vehicle under RCW 46.25.090.

28 (46) "Serious violent offense" is a subcategory of violent  
29 offense and means:

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

31 (ii) Homicide by abuse;

32 (iii) Murder in the second degree;

33 (iv) Manslaughter in the first degree;

34 (v) Assault in the first degree;

35 (vi) Kidnapping in the first degree;

36 (vii) Rape in the first degree;

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

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

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

4 (47) "Sex offense" means:

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

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

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

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

13 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
14 as a sex offender) if the person has been convicted of violating RCW  
15 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
16 prior to June 10, 2010, on at least one prior occasion;

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

20 (c) A felony with a finding of sexual motivation under RCW  
21 9.94A.835 or 13.40.135; or

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

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

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

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

35 (51) "Stranger" means that the victim did not know the offender  
36 24 hours before the offense.

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

1 (53) "Transition training" means written and verbal instructions  
2 and assistance provided by the department to the offender during the  
3 two weeks prior to the offender's successful completion of the work  
4 ethic camp program. The transition training shall include  
5 instructions in the offender's requirements and obligations during  
6 the offender's period of community custody.

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

10 (55) "Victim of domestic violence" means an intimate partner or  
11 household member who has been subjected to the infliction of physical  
12 harm or sexual and psychological abuse by an intimate partner or  
13 household member as part of a pattern of assaultive, coercive, and  
14 controlling behaviors directed at achieving compliance from or  
15 control over that intimate partner or household member. Domestic  
16 violence includes, but is not limited to, the offenses listed in RCW  
17 10.99.020 and 26.50.010 committed by an intimate partner or household  
18 member against a victim who is an intimate partner or household  
19 member.

20 (56) "Victim of sex trafficking, prostitution, or commercial  
21 sexual abuse of a minor" means a person who has been forced or  
22 coerced to perform a commercial sex act including, but not limited  
23 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,  
24 9.68A.101, and the trafficking victims protection act of 2000, 22  
25 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a  
26 commercial sex act when they were less than 18 years of age including  
27 but not limited to the offenses defined in chapter 9.68A RCW.

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

34 (58) "Violent offense" means:

35 (a) Any of the following felonies:

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

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

40 (iii) Manslaughter in the first degree;

- 1 (iv) Manslaughter in the second degree;  
2 (v) Indecent liberties if committed by forcible compulsion;  
3 (vi) Kidnapping in the second degree;  
4 (vii) Arson in the second degree;  
5 (viii) Assault in the second degree;  
6 (ix) Assault of a child in the second degree;  
7 (x) Extortion in the first degree;  
8 (xi) Robbery in the second degree;  
9 (xii) Drive-by shooting;  
10 (xiii) Vehicular assault, when caused by the operation or driving  
11 of a vehicle by a person while under the influence of intoxicating  
12 liquor or any drug or by the operation or driving of a vehicle in a  
13 reckless manner; and  
14 (xiv) Vehicular homicide, when proximately caused by the driving  
15 of any vehicle by any person while under the influence of  
16 intoxicating liquor or any drug as defined by RCW 46.61.502, or by  
17 the operation of any vehicle in a reckless manner;  
18 (b) Any conviction for a felony offense in effect at any time  
19 prior to July 1, 1976, that is comparable to a felony classified as a  
20 violent offense in (a) of this subsection; and  
21 (c) Any federal or out-of-state conviction for an offense that  
22 under the laws of this state would be a felony classified as a  
23 violent offense under (a) or (b) of this subsection.  
24 (59) "Work crew" means a program of partial confinement  
25 consisting of civic improvement tasks for the benefit of the  
26 community that complies with RCW 9.94A.725.  
27 (60) "Work ethic camp" means an alternative incarceration program  
28 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
29 the cost of corrections by requiring offenders to complete a  
30 comprehensive array of real-world job and vocational experiences,  
31 character-building work ethics training, life management skills  
32 development, substance abuse rehabilitation, counseling, literacy  
33 training, and basic adult education.  
34 (61) "Work release" means a program of partial confinement  
35 available to offenders who are employed or engaged as a student in a  
36 regular course of study at school.

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



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

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

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

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

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

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

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

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

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

1 (1) (a) Any person licensed under this chapter or who has a valid  
2 driver's license from another state, who is convicted of: (i) A  
3 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or  
4 out-of-state statute or ordinance, or (ii) a violation of RCW  
5 46.61.520(1) (a) or an equivalent local or out-of-state statute or  
6 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)  
7 (b) or (c) if the conviction is the result of a charge that was  
8 originally filed as a violation of RCW 46.61.520(1) (a), or (iv) RCW  
9 46.61.522(1) (b) or an equivalent local or out-of-state statute or  
10 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is  
11 the result of a charge that was originally filed as a violation of  
12 RCW 46.61.522(1) (b) committed while under the influence of  
13 intoxicating liquor or any drug, or (vi) who has had or will have his  
14 or her license suspended, revoked, or denied under RCW 46.20.3101, or  
15 has had his or her license suspended, revoked, or denied under RCW  
16 46.61.5055(11) (c) (i), or who is otherwise permitted under subsection  
17 (8) of this section, may submit to the department an application for  
18 an ignition interlock driver's license. The department, upon receipt  
19 of the prescribed fee and upon determining that the petitioner is  
20 eligible to receive the license, may issue an ignition interlock  
21 driver's license.

22 (b) A person may apply for an ignition interlock driver's license  
23 anytime, including immediately after receiving the notices under RCW  
24 46.20.308 or after his or her license is suspended, revoked, or  
25 denied.

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

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

34 (ii) Subject to any periodic renewal requirements established by  
35 the department under this section and subject to any applicable  
36 compliance requirements under this chapter or other law, an ignition  
37 interlock driver's license granted upon a suspension or revocation  
38 under RCW 46.61.5055 or 46.20.3101 extends through the remaining  
39 portion of any concurrent or consecutive suspension or revocation

1 that may be imposed as the result of administrative action and  
2 criminal conviction arising out of the same incident.

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

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

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

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

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

1 department, except that the company may retain ((~~twenty-five~~)) 25  
2 cents per month of the additional fee to cover the expenses  
3 associated with administering the fee.

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

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

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

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

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

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

33 (a) **Pretrial release.** Upon receipt of notice from a court that an  
34 ignition interlock device restriction has been imposed under RCW  
35 10.21.055;

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

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

4 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;  
5 or

6 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance  
7 if the person would be required under RCW 46.61.5249(4) or  
8 46.61.500(3) (a) or (b) to install an ignition interlock device on  
9 all vehicles operated by the person in the event of a conviction;

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

14 (i) Due to a conviction of a violation of RCW 46.61.502 or  
15 46.61.504 or an equivalent local or out-of-state statute or  
16 ordinance; or

17 (ii) Due to a conviction of a violation of RCW 46.61.5249 or  
18 46.61.500 or an equivalent local ordinance if the person is required  
19 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an  
20 ignition interlock device on all vehicles operated by the person; or

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

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

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

36 (a) Subsection (1)(a) of this section shall remain in effect  
37 until:

38 (i) The court has authorized the removal of the device under RCW  
39 10.21.055; or

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

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

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

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

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

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

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

19 For purposes of determining a period of restriction for a person  
20 restricted pursuant to a conviction under (d) of this subsection, a  
21 restriction based on a deferred prosecution under subsection (1)(c)  
22 of this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this subsection.

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

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

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

37 (g) The period of restriction under (c) and (d) of this  
38 subsection based on incidents occurring on or after June 9, 2016,  
39 must be tolled for any period in which the person does not have an  
40 ignition interlock device installed on a vehicle owned or operated by

1 the person unless the person receives a determination from the  
2 department that the person is unable to operate an ignition interlock  
3 device due to a physical disability. For all drivers restricted under  
4 this section with incidents and restriction start dates prior to June  
5 9, 2016, a driver may apply to waive the restriction by applying for  
6 a determination from the department that the person is unable to  
7 operate an ignition interlock device due to a physical disability.

8 The department's determination that a person is unable to operate an  
9 ignition interlock device must be reasonable and be based upon good  
10 and substantial evidence. This determination is subject to review by  
11 a court of competent jurisdiction. The department may charge a person  
12 seeking a medical exemption under this subsection a reasonable fee  
13 for the assessment.

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

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

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

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

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

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

38 (v) Removal of the ignition interlock device by a person other  
39 than an ignition interlock technician certified by the Washington  
40 state patrol; and



1 (b) That the ignition interlock device was inspected at the  
2 conclusion of the ((one hundred eighty day)) 180-day period by an  
3 ignition interlock technician certified by the Washington state  
4 patrol and no evidence was found that the device was tampered with in  
5 the manner described in RCW 46.20.750.

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

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

17 (c) If the day-for-day credit granted under this subsection  
18 equals or exceeds the period of time the ignition interlock device  
19 restriction is imposed under subsection (1)(c) or (d) of this section  
20 arising out of the same incident, and the person has already met the  
21 requirements for removal of the device under subsection (4) of this  
22 section, the department may waive the requirement that a device be  
23 installed or that the person again meet the requirements for removal.

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

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

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

4        (7) **Ignition interlock device revolving account.** In addition to  
5 any other costs associated with the use of an ignition interlock  
6 device imposed on the person restricted under this section, the  
7 person shall pay an additional fee of (~~twenty-one dollars~~) \$21 per  
8 month. Payments must be made directly to the ignition interlock  
9 company. The company shall remit the additional fee to the department  
10 to be deposited into the ignition interlock device revolving account,  
11 except that the company may retain (~~twenty-five~~) 25 cents per month  
12 of the additional fee to cover the expenses associated with  
13 administering the fee. The department may waive the monthly fee if  
14 the person is indigent under RCW 10.101.010.

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

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

31        (1) The department shall attach or imprint a notation on the  
32 driving record of any person restricted under RCW 46.20.720,  
33 46.61.5055, or 10.05.140 stating that the person may operate only a  
34 motor vehicle equipped with a functioning ignition interlock device.  
35 The department shall determine the person's eligibility for licensing  
36 based upon written verification by a company doing business in the  
37 state that it has installed the required device on a vehicle owned or  
38 operated by the person seeking reinstatement. If, based upon  
39 notification from the interlock provider or otherwise, the department

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

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

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

25 **Sec. 7.** RCW 46.61.5055 and 2020 c 330 s 15 are each amended to  
26 read as follows:

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

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

36 (i) By imprisonment for not less than (~~twenty-four~~) 24  
37 consecutive hours nor more than (~~three hundred sixty-four~~) 364  
38 days. In lieu of the mandatory minimum term of imprisonment required  
39 under this subsection (1)(a)(i), the court, in its discretion, may

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

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

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

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

38 (ii) By a fine of not less than (~~five hundred dollars~~) \$500 nor  
39 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. 8.** 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.

34 NEW SECTION. **Sec. 9.** This act takes effect January 1, 2026.

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