
SECOND SUBSTITUTE SENATE BILL 6236

State of Washington 64th Legislature 2016 Regular Session

By Senate Transportation (originally sponsored by Senator Padden)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to the 24/7 sobriety program; amending RCW
2 10.21.055, 46.61.5055, 46.20.3101, and 36.28A.390; and repealing RCW
3 36.28A.310.

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

5 **Sec. 1.** RCW 10.21.055 and 2015 2nd sp.s. c 3 s 2 are each
6 amended to read as follows:

7 (1)(a) When any person charged with a violation of RCW 46.61.502,
8 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
9 offense as defined in RCW 46.61.5055 and the current offense involves
10 alcohol, is released from custody at arraignment or trial on bail or
11 personal recognizance, the court authorizing the release shall
12 require, as a condition of release that person comply with one of the
13 following four requirements:

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

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

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

6 (iv) Have an ignition interlock device on all motor vehicles
7 operated by the person and that such person agrees not to operate any
8 motor vehicle without an ignition interlock device as required by the
9 court. Under this subsection (1)(a)(iv), the person must file a sworn
10 statement with the court upon release at arraignment that states the
11 person will not operate any motor vehicle without an ignition
12 interlock device while the ignition interlock restriction is imposed
13 by the court. Such person must also submit to 24/7 sobriety program
14 monitoring pursuant to (a)(ii) of this subsection, if available, or
15 alcohol monitoring, at the expense of the person, as provided in RCW
16 46.61.5055(5) (b) and (c).

17 (b) The court shall immediately notify the department of
18 licensing when an ignition interlock restriction is imposed: (i) As a
19 condition of release pursuant to (a) of this subsection; or (ii) in
20 instances where a person is charged with, or convicted of, a
21 violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, and
22 the offense involves alcohol. If the court imposes an ignition
23 interlock restriction, the department of licensing shall attach or
24 imprint a notation on the driving record of any person restricted
25 under this section stating that the person may operate only a motor
26 vehicle equipped with a functioning ignition interlock device.

27 (2)(a) Upon acquittal or dismissal of all pending or current
28 charges relating to a violation of RCW 46.61.502, 46.61.504,
29 46.61.520, or 46.61.522, or equivalent local ordinance, the court
30 shall authorize removal of the ignition interlock device and lift any
31 requirement to comply with electronic alcohol/drug monitoring imposed
32 under subsection (1) of this section. Nothing in this section limits
33 the authority of the court or department under RCW 46.20.720.

34 (b) If the court authorizes removal of an ignition interlock
35 device imposed under ~~((a) of)~~ this ~~((subsection[,]))~~ section, the
36 court shall immediately notify the department of licensing regarding
37 the lifting of the ignition interlock restriction and the department
38 of licensing shall release any attachment, imprint, or notation on
39 such person's driving record relating to the ignition interlock
40 requirement imposed under this section.

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

6 **Sec. 2.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each
7 amended to read as follows:

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

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

17 (i) By imprisonment for not less than one day nor more than three
18 hundred sixty-four days. Twenty-four consecutive hours of the
19 imprisonment may not be suspended unless the court finds that the
20 imposition of this mandatory minimum sentence would impose a
21 substantial risk to the offender's physical or mental well-being.
22 Whenever the mandatory minimum sentence is suspended, the court shall
23 state in writing the reason for granting the suspension and the facts
24 upon which the suspension is based. In lieu of the mandatory minimum
25 term of imprisonment required under this subsection (1)(a)(i), the
26 court may order not less than fifteen days of electronic home
27 monitoring or a ninety day period of 24/7 sobriety program
28 monitoring. The court may consider the offender's pretrial 24/7
29 sobriety program monitoring 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 or other separate
34 alcohol monitoring device to include an alcohol detection
35 breathalyzer, and the court may restrict the amount of alcohol the
36 offender may consume during the time the offender is on electronic
37 home monitoring; and

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

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

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

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

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

32 (2) **One prior offense in seven years.** Except as provided in RCW
33 46.61.502(6) or 46.61.504(6), a person who is convicted of a
34 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
35 within seven years shall be punished as follows:

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

1 (i) By imprisonment for not less than thirty days nor more than
2 three hundred sixty-four days and sixty days of electronic home
3 monitoring. In lieu of the mandatory minimum term of sixty days
4 electronic home monitoring, the court may order at least an
5 additional four days in jail or, if available in that county or city,
6 a six-month period of 24/7 sobriety program monitoring pursuant to
7 RCW 36.28A.300 through 36.28A.390, and the court shall order an
8 expanded alcohol assessment and treatment, if deemed appropriate by
9 the assessment. The offender shall pay for the cost of the electronic
10 monitoring. The county or municipality where the penalty is being
11 imposed shall determine the cost. The court may also require the
12 offender's electronic home monitoring device include an alcohol
13 detection breathalyzer or other separate alcohol monitoring device,
14 and may restrict the amount of alcohol the offender may consume
15 during the time the offender is on electronic home monitoring. Thirty
16 days of imprisonment and sixty days of electronic home monitoring may
17 not be suspended unless the court finds that the imposition of this
18 mandatory minimum sentence would impose a substantial risk to the
19 offender's physical or mental well-being. Whenever the mandatory
20 minimum sentence is suspended, the court shall state in writing the
21 reason for granting the suspension and the facts upon which the
22 suspension is based; and

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

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

31 (i) By imprisonment for not less than forty-five days nor more
32 than three hundred sixty-four days and ninety days of electronic home
33 monitoring. In lieu of the mandatory minimum term of ninety days
34 electronic home monitoring, the court may order at least an
35 additional six days in jail or, if available in that county or city,
36 a six-month period of 24/7 sobriety program monitoring pursuant to
37 RCW 36.28A.300 through 36.28A.390, and the court shall order an
38 expanded alcohol assessment and treatment, if deemed appropriate by
39 the assessment. The offender shall pay for the cost of the electronic
40 monitoring. The county or municipality where the penalty is being

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

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

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

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

27 (i) By imprisonment for not less than ninety days nor more than
28 three hundred sixty-four days, if available in that county or city, a
29 six-month period of 24/7 sobriety program monitoring pursuant to RCW
30 36.28A.300 through 36.28A.390, and one hundred twenty days of
31 electronic home monitoring. In lieu of the mandatory minimum term of
32 one hundred twenty days of electronic home monitoring, the court may
33 order at least an additional eight days in jail. The court shall
34 order an expanded alcohol assessment and treatment, if deemed
35 appropriate by the assessment. The offender shall pay for the cost of
36 the electronic monitoring. The county or municipality where the
37 penalty is being imposed shall determine the cost. The court may also
38 require the offender's electronic home monitoring device include an
39 alcohol detection breathalyzer or other separate alcohol monitoring
40 device, and may restrict the amount of alcohol the offender may

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

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

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

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

39 (ii) By a fine of not less than one thousand five hundred dollars
40 nor more than five thousand dollars. One thousand five hundred

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

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

6 (a) The person has four or more prior offenses within ten years;
7 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.**

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

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

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

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

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

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

8 (6) **Penalty for having a minor passenger in vehicle.** If a person
9 who is convicted of a violation of RCW 46.61.502 or 46.61.504
10 committed the offense while a passenger under the age of sixteen was
11 in the vehicle, the court shall:

12 (a) Order the use of an ignition interlock or other device for an
13 additional six months;

14 (b) In any case in which the person has no prior offenses within
15 seven years, and except as provided in RCW 46.61.502(6) or
16 46.61.504(6), order an additional twenty-four hours of imprisonment
17 and a fine of not less than one thousand dollars and not more than
18 five thousand dollars. One thousand dollars of the fine may not be
19 suspended unless the court finds the offender to be indigent;

20 (c) In any case in which the person has one prior offense within
21 seven years, and except as provided in RCW 46.61.502(6) or
22 46.61.504(6), order an additional five days of imprisonment and a
23 fine of not less than two thousand dollars and not more than five
24 thousand dollars. One thousand dollars of the fine may not be
25 suspended unless the court finds the offender to be indigent;

26 (d) In any case in which the person has two or three prior
27 offenses within seven years, and except as provided in RCW
28 46.61.502(6) or 46.61.504(6), order an additional ten days of
29 imprisonment and a fine of not less than three thousand dollars and
30 not more than ten thousand dollars. One thousand dollars of the fine
31 may not be suspended unless the court finds the offender to be
32 indigent.

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

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

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

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

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

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

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

14 (a) **Penalty for alcohol concentration less than 0.15.** If the
15 person's alcohol concentration was less than 0.15, or if for reasons
16 other than the person's refusal to take a test offered under RCW
17 46.20.308 there is no test result indicating the person's alcohol
18 concentration:

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

26 (ii) Where there has been one prior offense within seven years,
27 be revoked or denied by the department for two years; or

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

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

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

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

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

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

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

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

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

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

17 Upon receipt of a notice from the court under RCW 36.28A.390 that
18 a participant has been removed from a 24/7 sobriety program, the
19 department must resume any suspension, revocation, or denial that had
20 been terminated early under this subsection due to participation in
21 the program, granting credit on a day-for-day basis for any portion
22 of a suspension, revocation, or denial already served under RCW
23 46.20.3101 or this section arising out of the same incident.

24 Upon its own motion or upon motion by a person, a court may find,
25 on the record, that notice to the department under RCW 46.20.270 has
26 been delayed for three years or more as a result of a clerical or
27 court error. If so, the court may order that the person's license,
28 permit, or nonresident privilege shall not be revoked, suspended, or
29 denied for that offense. The court shall send notice of the finding
30 and order to the department and to the person. Upon receipt of the
31 notice from the court, the department shall not revoke, suspend, or
32 deny the license, permit, or nonresident privilege of the person for
33 that offense.

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

37 (10) **Probation of driving privilege.** After expiration of any
38 period of suspension, revocation, or denial of the offender's
39 license, permit, or privilege to drive required by this section, the

1 department shall place the offender's driving privilege in
2 probationary status pursuant to RCW 46.20.355.

3 (11) **Conditions of probation.** (a) In addition to any
4 nonsuspendable and nondeferrable jail sentence required by this
5 section, whenever the court imposes up to three hundred sixty-four
6 days in jail, the court shall also suspend but shall not defer a
7 period of confinement for a period not exceeding five years. The
8 court shall impose conditions of probation that include: (i) Not
9 driving a motor vehicle within this state without a valid license to
10 drive; (ii) not driving a motor vehicle within this state without
11 proof of liability insurance or other financial responsibility for
12 the future pursuant to RCW 46.30.020; (iii) not driving or being in
13 physical control of a motor vehicle within this state while having an
14 alcohol concentration of 0.08 or more or a THC concentration of 5.00
15 nanograms per milliliter of whole blood or higher, within two hours
16 after driving; (iv) not refusing to submit to a test of his or her
17 breath or blood to determine alcohol or drug concentration upon
18 request of a law enforcement officer who has reasonable grounds to
19 believe the person was driving or was in actual physical control of a
20 motor vehicle within this state while under the influence of
21 intoxicating liquor or drug; and (v) not driving a motor vehicle in
22 this state without a functioning ignition interlock device as
23 required by the department under RCW 46.20.720(3). The court may
24 impose conditions of probation that include nonrepetition,
25 installation of an ignition interlock device on the probationer's
26 motor vehicle, alcohol or drug treatment, supervised probation, or
27 other conditions that may be appropriate. The sentence may be imposed
28 in whole or in part upon violation of a condition of probation during
29 the suspension period.

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

34 (c) For each incident involving a violation of a mandatory
35 condition of probation imposed under this subsection, the license,
36 permit, or privilege to drive of the person shall be suspended by the
37 court for thirty days or, if such license, permit, or privilege to
38 drive already is suspended, revoked, or denied at the time the
39 finding of probation violation is made, the suspension, revocation,
40 or denial then in effect shall be extended by thirty days. The court

1 shall notify the department of any suspension, revocation, or denial
2 or any extension of a suspension, revocation, or denial imposed under
3 this subsection.

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

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

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

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

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

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

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

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

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

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

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

- 1 (iii) A conviction for a violation of RCW 46.25.110 or an
2 equivalent local ordinance;
- 3 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
4 equivalent local ordinance;
- 5 (v) A conviction for a violation of RCW 79A.60.040(1) or an
6 equivalent local ordinance committed in a reckless manner if the
7 conviction is the result of a charge that was originally filed as a
8 violation of RCW 79A.60.040(2) or an equivalent local ordinance;
- 9 (vi) A conviction for a violation of RCW 47.68.220 or an
10 equivalent local ordinance committed while under the influence of
11 intoxicating liquor or any drug;
- 12 (vii) A conviction for a violation of RCW 47.68.220 or an
13 equivalent local ordinance committed in a careless or reckless manner
14 if the conviction is the result of a charge that was originally filed
15 as a violation of RCW 47.68.220 or an equivalent local ordinance
16 while under the influence of intoxicating liquor or any drug;
- 17 (viii) A conviction for a violation of RCW 46.09.470(2) or an
18 equivalent local ordinance;
- 19 (ix) A conviction for a violation of RCW 46.10.490(2) or an
20 equivalent local ordinance;
- 21 (x) A conviction for a violation of RCW 46.61.520 committed while
22 under the influence of intoxicating liquor or any drug, or a
23 conviction for a violation of RCW 46.61.520 committed in a reckless
24 manner or with the disregard for the safety of others if the
25 conviction is the result of a charge that was originally filed as a
26 violation of RCW 46.61.520 committed while under the influence of
27 intoxicating liquor or any drug;
- 28 (xi) A conviction for a violation of RCW 46.61.522 committed
29 while under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.522 committed in a reckless
31 manner or with the disregard for the safety of others if the
32 conviction is the result of a charge that was originally filed as a
33 violation of RCW 46.61.522 committed while under the influence of
34 intoxicating liquor or any drug;
- 35 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
36 or 9A.36.050 or an equivalent local ordinance, if the conviction is
37 the result of a charge that was originally filed as a violation of
38 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
39 RCW 46.61.520 or 46.61.522;

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

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

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

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

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

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

29 (b) "Treatment" means alcohol or drug treatment approved by the
30 department of social and health services;

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

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

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

1 **Sec. 3.** RCW 46.20.3101 and 2013 c 3 s 32 are each amended to
2 read as follows:

3 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
4 or deny the arrested person's license, permit, or privilege to drive
5 as follows:

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

7 (a) For a first refusal within seven years, where there has not
8 been a previous incident within seven years that resulted in
9 administrative action under this section, revocation or denial for
10 one year;

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

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

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

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

27 (3) In the case of an incident where a person under age twenty-
28 one has submitted to or been administered a test or tests indicating
29 that the alcohol concentration of the person's breath or blood was
30 0.02 or more, or that the THC concentration of the person's blood was
31 above 0.00:

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

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

37 (4) The department shall grant credit on a day-for-day basis for
38 any portion of a suspension, revocation, or denial already served
39 under this section for a suspension, revocation, or denial imposed
40 under RCW 46.61.5055 arising out of the same incident.

1 **Sec. 4.** RCW 36.28A.390 and 2015 2nd sp.s. c 3 s 19 are each
2 amended to read as follows:

3 (1) A general authority Washington peace officer, as defined in
4 RCW 10.93.020, who has probable cause to believe that a participant
5 has violated the terms of participation in the 24/7 sobriety program
6 may immediately take the participant into custody and cause him or
7 her to be held until an appearance before a judge on the next
8 judicial day.

9 (2) A participant who violates the terms of participation in the
10 24/7 sobriety program or does not pay the required fees or associated
11 costs pretrial or posttrial shall, at a minimum:

12 (a) Receive a written warning notice for a first violation;

13 (b) Serve (~~((the lesser of two days imprisonment or if posttrial,~~
14 ~~the entire remaining sentence imposed by the court))~~) a minimum of one
15 day imprisonment for a second violation;

16 (c) Serve (~~((the lesser of five days imprisonment or if posttrial,~~
17 ~~the entire remaining sentence imposed by the court))~~) a minimum of
18 three days imprisonment for a third violation;

19 (d) Serve (~~((the lesser of ten days imprisonment or if posttrial,~~
20 ~~the entire remaining sentence imposed by the court))~~) a minimum of
21 five days imprisonment for a fourth violation; and

22 (e) Serve a minimum of seven days imprisonment for a fifth or
23 subsequent violation (~~((pretrial, the participant shall abide by the~~
24 ~~order of the court. For posttrial participants, the participant shall~~
25 ~~serve the entire remaining sentence imposed by the court))~~).

26 (3) The court may remove a participant from the 24/7 sobriety
27 program at any time for noncompliance with the terms of
28 participation. If a participant is removed from the 24/7 sobriety
29 program, the court shall send written notice to the department of
30 licensing within five business days.

31 NEW SECTION. **Sec. 5.** RCW 36.28A.310 (24/7 sobriety program
32 pilot project) and 2013 2nd sp.s. c 35 s 24 are each repealed.

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