

2013 WA STATUTES FOR 24/7 SOBRIETY PROGRAM

RCW 10.21.055

Conditions of release — Requirements —
Ignition interlock device — 24/7 sobriety
program monitoring.

(1) When any person charged with or arrested for a violation of RCW [46.61.502](#), [46.61.504](#), [46.61.520](#), or [46.61.522](#), in which the person has a prior offense as defined in RCW [46.61.5055](#) and the current offense involves alcohol, is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release shall require, as a condition of release, that person to (a) have a functioning ignition interlock device installed on all motor vehicles operated by the person, with proof of installation filed with the court by the person or the certified interlock provider within five business days of the date of release from custody or as soon thereafter as determined by the court based on availability within the jurisdiction; or (b) comply with 24/7 sobriety program monitoring, as defined in RCW [36.28A.330](#); or both.

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

[2013 2nd sp.s. c 35 § 1.]

RCW 36.28A.300

24/7 sobriety program.

There is created a 24/7 sobriety program to be administered by the Washington traffic safety commission in conjunction with the Washington association of sheriffs and police chiefs. The program shall coordinate efforts among various local government entities for the purpose of implementing alternatives to incarceration for offenders convicted under RCW [46.61.502](#) or [46.61.504](#) with one or more prior convictions under RCW [46.61.502](#) or [46.61.504](#).

[2013 2nd sp.s. c 35 § 23.]

RCW 36.28A.310

24/7 sobriety program pilot project.

The Washington association of sheriffs and police chiefs shall conduct a 24/7 sobriety program pilot project.

(1) Pilot project sites shall be established in no more than three counties and two cities. Local jurisdictions outside of the pilot project sites are encouraged to establish a 24/7 sobriety program as soon as practicable.

(2) The Washington association of sheriffs and police chiefs must, to the greatest extent possible, select pilot project sites from diverse geographic areas. The cities selected for participation in the project must not be from within a county selected for the program.

(3) The Washington association of sheriffs and police chiefs shall develop criteria for participation in the 24/7 sobriety program pilot project including, but not limited to:

(a) Geographic diversity;

(b) Sufficient volume of eligible participants to provide useable data for the pilot;

(c) County or city commitment to administration of the program; and

(d) Capability of the county or city law enforcement agency to effectively accommodate and administer the program.

(4) The Washington association of sheriffs and police chiefs shall provide a study of the 24/7 sobriety program project measuring changes in recidivism and related county or city savings or costs.

(5) The Washington association of sheriffs and police chiefs shall report preliminary findings and final results of the study to the governor and the legislature on an annual basis. It is the intent of the legislature that the 24/7 sobriety program shall achieve the goal of implementation statewide by January 1, 2017.

RCW 36.28A.320

24/7 sobriety account.

There is hereby established in the state treasury the 24/7 sobriety account. The account shall be maintained and administered by the Washington traffic safety commission to reimburse the state for costs associated with establishing the program and the Washington association of sheriffs and police chiefs for ongoing program administration costs. The Washington traffic safety commission may accept for deposit in the account money from donations, gifts, grants, participation fees, and user fees or payments. Expenditures from the account shall be budgeted through the normal budget process.

RCW 36.28A.330

24/7 sobriety program definitions.

The definitions in this section apply throughout RCW [36.28A.300](#) through [36.28A.390](#) unless the context clearly requires otherwise.

(1) "24/7 electronic alcohol/drug monitoring" means the monitoring by the use of any electronic instrument that is capable of determining and monitoring the presence of alcohol or drugs in a person's body and includes any associated equipment a participant needs in order for the device to properly perform. Monitoring may also include mandatory urine analysis tests as ordered by the court.

(2) "Participant" means a person who has one or more prior convictions for a violation of RCW [46.61.502](#) or [46.61.504](#) and who has been ordered by a court to participate in the 24/7 sobriety program.

(3) "Participating agency" means a sheriff's office or a designated entity named by a sheriff that has agreed to participate in the 24/7 sobriety program by enrolling participants, administering one or more of the tests, and submitting reports to the Washington association of sheriffs and police chiefs.

(4) "Participation agreement" means a written document executed by a participant agreeing to participate in the 24/7 sobriety program in a form approved by the Washington association of sheriffs and police chiefs that contains the following information:

- (a) The type, frequency, and time period of testing;
- (b) The location of testing;
- (c) The fees and payment procedures required for testing; and
- (d) The responsibilities and obligations of the participant under the 24/7 sobriety program.

(5) "24/7 sobriety program" means a twenty-four hour and seven day a week sobriety program in which a participant submits to the testing of the participant's blood, breath, urine, or other bodily substances in order to determine the presence of alcohol, marijuana, or any controlled substance in the participant's body.

[2013 2nd sp.s. c 35 § 26.]

RCW 36.28A.340

24/7 sobriety program — Counties or cities may participate. (*Effective January 1, 2014.*)

Each county or city, through its sheriff or chief, may participate in the 24/7 sobriety program. If a sheriff or chief is unwilling or unable to participate in the 24/7 sobriety program, the sheriff or chief may designate an entity willing to provide the service.

[2013 2nd sp.s. c 35 § 27.]

Notes:

Effective date -- 2013 2nd sp.s. c 35 §§ 27, 28, and 30-32: "Sections 27, 28, and 30 through 32 of this act take effect January 1, 2014." [2013 2nd sp.s. c 35 § 44.]

RCW 36.28A.350

24/7 sobriety program — Bond or pretrial release. (*Effective January 1, 2014.*)

The court may condition any bond or pretrial release upon participation in the 24/7 sobriety program and payment of associated costs and expenses, if available.

[2013 2nd sp.s. c 35 § 28.]

Notes:

Effective date -- 2013 2nd sp.s. c 35 §§ 27, 28, and 30-32: See note following RCW [36.28A.340](#).

RCW 36.28A.360

24/7 sobriety program — Washington association of sheriffs and police chiefs may adopt policies and procedures.

The Washington association of sheriffs and police chiefs may adopt policies and procedures for the administration of the 24/7 sobriety program to:

- (1) Provide for procedures and apparatus for testing;
- (2) Establish fees and costs for participation in the program to be paid by the participants;
- (3) Require the submission of reports and information by law enforcement agencies within this state.

[2013 2nd sp.s. c 35 § 29.]

RCW 36.28A.370

24/7 sobriety account — Distribution of funds. (*Effective January 1, 2014.*)

(1) Funds in the 24/7 sobriety account shall be distributed as follows:

(a) Any daily user fee, installation fee, deactivation fee, enrollment fee, or monitoring fee collected under the 24/7 sobriety program shall be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and deposited with the county or city treasurer of the proper county or city, the proceeds of which shall be applied and used only to defray the recurring costs of the 24/7 sobriety program including maintaining equipment, funding support services, and ensuring compliance; and

(b) Any participation fee collected in the administration of testing under the 24/7 sobriety program to cover program administration costs incurred by the Washington association of sheriffs and police chiefs shall be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and deposited in the 24/7 sobriety account.

(2) All applicable fees shall be paid by the participant contemporaneously or in advance of the time when the fee becomes due.

[2013 2nd sp.s. c 35 § 30.]

RCW 36.28A.380

24/7 sobriety program — No waiver or reduction of fees. (*Effective January 1, 2014.*)

The court shall not waive or reduce fees or associated costs charged for participation in the 24/7 sobriety program.

[2013 2nd sp.s. c 35 § 31.]

Notes:

Effective date -- 2013 2nd sp.s. c 35 §§ 27, 28, and 30-32: See note following RCW [36.28A.340](#).

RCW 36.28A.390

24/7 sobriety program — Violation of terms — Penalties. (*Effective January 1, 2014.*)

(1) A participant who violates the terms of participation in the 24/7 sobriety program or does not pay the required fees or associated costs shall:

- (a) Receive a written warning notice for a first violation;
- (b) Serve a term of two days imprisonment for a second violation;
- (c) Serve a term of up to five days imprisonment for a third violation;
- (d) Serve a term of up to ten days imprisonment for a fourth violation; and
- (e) For a fifth violation, the participant shall serve the entire remaining sentence imposed by the court.

(2) A sheriff or chief, or the designee of a sheriff or chief, who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program or has not paid the required fees or associated costs shall immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.

[2013 2nd sp.s. c 35 § 32.]

Notes:

Effective date -- 2013 2nd sp.s. c 35 §§ 27, 28, and 30-32: See note following RCW [36.28A.340](#).

RCW 46.61.5055

Alcohol and drug violators — Penalty schedule.

(1) Except as provided in RCW [46.61.502](#)(6) or [46.61.504](#) (6), a person who is convicted of a violation of RCW [46.61.502](#) or [46.61.504](#) and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW [46.20.308](#) there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

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

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW [46.20.308](#) there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Forty-eight consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five

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

(2) Except as provided in RCW [46.61.502](#)(6) or [46.61.504](#)(6), a person who is convicted of a violation of RCW [46.61.502](#) or [46.61.504](#) and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW [46.20.308](#) there is no test result indicating the person's alcohol concentration:

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

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

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW [46.20.308](#) there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW [36.28A.300](#) through [36.28A.390](#), and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts

upon which the suspension is based; and

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

(3) Except as provided in RCW [46.61.502](#)(6) or [46.61.504](#)(6), a person who is convicted of a violation of RCW [46.61.502](#) or [46.61.504](#) and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW [46.20.308](#) there is no test result indicating the person's alcohol concentration:

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

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

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW [46.20.308](#) there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW [36.28A.300](#) through [36.28A.390](#), and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring

may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

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

(4) A person who is convicted of a violation of RCW [46.61.502](#) or [46.61.504](#) shall be punished under chapter [9.94A](#) RCW if:

(a) The person has four or more prior offenses within ten years; or

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

(i) A violation of RCW [46.61.520](#) committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW [46.61.522](#) committed while under the influence of intoxicating liquor or any drug;

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

(iv) A violation of RCW [46.61.502](#)(6) or [46.61.504](#)(6).

(5)(a) The court shall require any person convicted of a violation of RCW [46.61.502](#) or [46.61.504](#) or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

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

(6) If a person who is convicted of a violation of RCW [46.61.502](#) or [46.61.504](#) committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

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

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

(c) In any case in which the person has one prior offense within seven years, and except as

provided in RCW [46.61.502](#)(6) or [46.61.504](#) (6), order an additional five days of imprisonment and a fine of not less than two thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

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

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

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

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

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

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

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW [46.61.5056](#).

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW [46.20.308](#) there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

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

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

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

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

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

(c) If by reason of the person's refusal to take a test offered under RCW [46.20.308](#), there is no test result indicating the person's alcohol concentration:

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

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

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

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW [46.20.3101](#) arising out of the same incident.

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

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

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW [46.20.355](#).

(11)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of liability insurance or other financial responsibility for the future pursuant to RCW [46.30.020](#); (ii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or

other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

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

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

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

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

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

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

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

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

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW [9.94A.728](#)(3).

(14) For purposes of this section and RCW [46.61.502](#) and [46.61.504](#):

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

(i) A conviction for a violation of RCW [46.61.502](#) or an equivalent local ordinance;

(ii) A conviction for a violation of RCW [46.61.504](#) or an equivalent local ordinance;

(iii) A conviction for a violation of RCW [46.61.520](#) committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW [46.61.520](#) committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW [46.61.520](#) committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW [46.61.522](#) committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW [46.61.522](#) committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW [46.61.522](#) committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW [46.61.5249](#), [46.61.500](#), or [9A.36.050](#) or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW [46.61.502](#) or [46.61.504](#), or an equivalent local ordinance, or of RCW [46.61.520](#) or [46.61.522](#);

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter [10.05](#) RCW granted in a prosecution for a violation of RCW [46.61.502](#), [46.61.504](#), or an equivalent local ordinance;

(viii) A deferred prosecution under chapter [10.05](#) RCW granted in a prosecution for a violation of RCW [46.61.5249](#), or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW [46.61.502](#) or [46.61.504](#), or an equivalent local ordinance, or of RCW [46.61.520](#) or [46.61.522](#);

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

(x) A deferred sentence imposed in a prosecution for a violation of RCW [46.61.5249](#), [46.61.500](#), or [9A.36.050](#), or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW [46.61.502](#) or [46.61.504](#), or an equivalent local ordinance, or a violation of RCW [46.61.520](#) or [46.61.522](#);

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

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

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

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

[2013 2nd sp.s. c 35 § 13. Prior: 2012 c 183 § 12; 2012 c 42 § 2; 2012 c 28 § 1; prior: 2011 c 293 § 7; 2011 c 96 § 35; 2010 c 269 § 4; 2008 c 282 § 14; 2007 c 474 § 1; 2006 c 73 § 3; 2004 c 95 § 13; 2003 c 103 § 1. Prior: 1999 c 324 § 5; 1999 c 274 § 6; 1999 c 5 § 1; prior: 1998 c 215 § 1; 1998 c 214 § 1; 1998 c 211 § 1; 1998 c 210 § 4; 1998 c 207 § 1; 1998 c 206 § 1; prior: 1997 c 229 § 11; 1997 c 66 § 14; 1996 c 307 § 3; 1995 1st sp.s. c 17 § 2; 1995 c 332 § 5.]

Notes:

Effective date -- 2012 c 183: See note following RCW [2.28.175](#).

Effective date -- 2011 c 293 §§ 1-9: See note following RCW [46.20.385](#).

Findings -- Intent -- 2011 c 96: See note following RCW [9A.20.021](#).

Effective date -- 2010 c 269: See note following RCW [46.20.385](#).

Effective date -- 2008 c 282: See note following RCW [46.20.308](#).

Effective date -- 2007 c 474: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 474 § 2.]

Effective date -- 2006 c 73: See note following RCW [46.61.502](#).

Severability -- 1999 c 5: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 c 5 § 2.]

Effective date -- 1999 c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 16, 1999]." [1999 c 5 § 3.]

Effective date -- 1998 c 214: "This act takes effect January 1, 1999." [1998 c 214 § 6.]

Effective date -- 1998 c 211: "This act takes effect January 1, 1999." [1998 c 211 § 7.]

Short title -- Finding -- Intent -- Effective date--1998 c 210: See notes following RCW [46.20.720](#).

Effective date -- 1998 c 207: "This act takes effect January 1, 1999." [1998 c 207 § 12.]

Effective date -- 1997 c 229: See note following RCW [10.05.090](#).

Effective date -- 1995 1st sp.s. c 17: See note following RCW [46.20.355](#).

Severability -- Effective dates -- 1995 c 332: See notes following RCW [46.20.308](#).

