

1 (b) If the offender is brought back to court, the court may  
2 modify the conditions of the community custody or impose sanctions  
3 under (c) of this subsection.

4 (c) The court may order the offender to serve a term of total  
5 confinement within the standard range of the offender's current  
6 offense at any time during the period of community custody if the  
7 offender violates the conditions or requirements of the sentence or  
8 if the offender is failing to make satisfactory progress in  
9 treatment.

10 (d) An offender ordered to serve a term of total confinement  
11 under (c) of this subsection shall receive credit for any time  
12 previously served under this section.

13 (8) In serving a term of community custody imposed upon failure  
14 to complete, or administrative termination from, the special drug  
15 offender sentencing alternative program, the offender shall receive  
16 no credit for time served in community custody prior to termination  
17 of the offender's participation in the program.

18 (9) An offender sentenced under this section shall be subject to  
19 all rules relating to earned release time with respect to any period  
20 served in total confinement.

21 (10) Costs of examinations and preparing treatment plans under a  
22 special drug offender sentencing alternative may be paid, at the  
23 option of the county, from funds provided to the county from the  
24 criminal justice treatment account under RCW 70.96A.350 (as  
25 recodified by this act).

26 **Sec. 525.** RCW 10.05.020 and 2010 c 269 s 9 are each amended to  
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, the  
29 petitioner shall allege under oath in the petition that the wrongful  
30 conduct charged is the result of or caused by ~~((alcoholism, drug~~  
31 ~~addiction,))~~ substance use disorders or mental problems for which the  
32 person is in need of treatment and unless treated the probability of  
33 future recurrence is great, along with a statement that the person  
34 agrees to pay the cost of a diagnosis and treatment of the alleged  
35 problem or problems if financially able to do so. The petition shall  
36 also contain a case history and written assessment prepared by an  
37 approved ~~((alcoholism))~~ substance use disorder treatment program as  
38 designated in chapter ~~((70.96A))~~ 71.24 RCW if the petition alleges  
39 ~~((alcoholism, an approved drug program as designated in chapter 71.24~~

1 ~~RCW if the petition alleges drug addiction,))~~ a substance use  
2 disorder or by an approved mental health center if the petition  
3 alleges a mental problem.

4 (2) In the case of a petitioner charged with a misdemeanor or  
5 gross misdemeanor under chapter 9A.42 RCW, the petitioner shall  
6 allege under oath in the petition that the petitioner is the natural  
7 or adoptive parent of the alleged victim; that the wrongful conduct  
8 charged is the result of parenting problems for which the petitioner  
9 is in need of services; that the petitioner is in need of child  
10 welfare services under chapter 74.13 RCW to improve his or her  
11 parenting skills in order to better provide his or her child or  
12 children with the basic necessities of life; that the petitioner  
13 wants to correct his or her conduct to reduce the likelihood of harm  
14 to his or her minor children; that in the absence of child welfare  
15 services the petitioner may be unable to reduce the likelihood of  
16 harm to his or her minor children; and that the petitioner has  
17 cooperated with the department of social and health services to  
18 develop a plan to receive appropriate child welfare services; along  
19 with a statement that the person agrees to pay the cost of the  
20 services if he or she is financially able to do so. The petition  
21 shall also contain a case history and a written service plan from the  
22 department of social and health services.

23 (3) Before entry of an order deferring prosecution, a petitioner  
24 shall be advised of his or her rights as an accused and execute, as a  
25 condition of receiving treatment, a statement that contains: (a) An  
26 acknowledgment of his or her rights; (b) an acknowledgment and waiver  
27 of the right to testify, the right to a speedy trial, the right to  
28 call witnesses to testify, the right to present evidence in his or  
29 her defense, and the right to a jury trial; (c) a stipulation to the  
30 admissibility and sufficiency of the facts contained in the written  
31 police report; and (d) an acknowledgment that the statement will be  
32 entered and used to support a finding of guilty if the court finds  
33 cause to revoke the order granting deferred prosecution. The  
34 petitioner shall also be advised that he or she may, if he or she  
35 proceeds to trial and is found guilty, be allowed to seek suspension  
36 of some or all of the fines and incarceration that may be ordered  
37 upon the condition that he or she seek treatment and, further, that  
38 he or she may seek treatment from public and private agencies at any  
39 time without regard to whether or not he or she is found guilty of  
40 the offense charged. He or she shall also be advised that the court

1 will not accept a petition for deferred prosecution from a person  
2 who: (i) Sincerely believes that he or she is innocent of the  
3 charges; (ii) sincerely believes that he or she does not, in fact,  
4 suffer from alcoholism, drug addiction, or mental problems; or (iii)  
5 in the case of a petitioner charged under chapter 9A.42 RCW,  
6 sincerely believes that he or she does not need child welfare  
7 services.

8 (4) Before entering an order deferring prosecution, the court  
9 shall make specific findings that: (a) The petitioner has stipulated  
10 to the admissibility and sufficiency of the facts as contained in the  
11 written police report; (b) the petitioner has acknowledged the  
12 admissibility of the stipulated facts in any criminal hearing on the  
13 underlying offense or offenses held subsequent to revocation of the  
14 order granting deferred prosecution; (c) the petitioner has  
15 acknowledged and waived the right to testify, the right to a speedy  
16 trial, the right to call witnesses to testify, the right to present  
17 evidence in his or her defense, and the right to a jury trial; and  
18 (d) the petitioner's statements were made knowingly and voluntarily.  
19 Such findings shall be included in the order granting deferred  
20 prosecution.

21 **Sec. 526.** RCW 10.05.030 and 2002 c 219 s 8 are each amended to  
22 read as follows:

23 The arraignment judge upon consideration of the petition and with  
24 the concurrence of the prosecuting attorney may continue the  
25 arraignment and refer such person for a diagnostic investigation and  
26 evaluation to an approved ~~((alcoholism))~~ substance use disorder  
27 treatment program as designated in chapter ~~((70.96A))~~ 71.24 RCW, if  
28 the petition alleges ~~((an alcohol problem, an approved drug treatment~~  
29 ~~center as designated in chapter 71.24 RCW, if the petition alleges a~~  
30 ~~drug problem))~~ a substance use disorder, to an approved mental health  
31 center, if the petition alleges a mental problem, or the department  
32 of social and health services if the petition is brought under RCW  
33 10.05.020(2).

34 **Sec. 527.** RCW 10.05.150 and 1999 c 143 s 43 are each amended to  
35 read as follows:

36 A deferred prosecution program for alcoholism shall be for a two-  
37 year period and shall include, but not be limited to, the following  
38 requirements:

1 (1) Total abstinence from alcohol and all other nonprescribed  
2 mind-altering drugs;

3 (2) Participation in an intensive inpatient or intensive  
4 outpatient program in a state-approved (~~alcoholism~~) substance use  
5 disorder treatment program;

6 (3) Participation in a minimum of two meetings per week of an  
7 alcoholism self-help recovery support group, as determined by the  
8 assessing agency, for the duration of the treatment program;

9 (4) Participation in an alcoholism self-help recovery support  
10 group, as determined by the assessing agency, from the date of court  
11 approval of the plan to entry into intensive treatment;

12 (5) Not less than weekly approved outpatient counseling, group or  
13 individual, for a minimum of six months following the intensive phase  
14 of treatment;

15 (6) Not less than monthly outpatient contact, group or  
16 individual, for the remainder of the two-year deferred prosecution  
17 period;

18 (7) The decision to include the use of prescribed drugs,  
19 including disulfiram, as a condition of treatment shall be reserved  
20 to the treating facility and the petitioner's physician;

21 (8) All treatment within the purview of this section shall occur  
22 within or be approved by a state-approved (~~alcoholism~~) substance  
23 use disorder treatment program as described in chapter 70.96A RCW;

24 (9) Signature of the petitioner agreeing to the terms and  
25 conditions of the treatment program.

26 **Sec. 528.** RCW 70.96C.020 and 2005 c 504 s 602 are each amended  
27 to read as follows:

28 The department of corrections shall, to the extent that resources  
29 are available for this purpose, utilize the integrated, comprehensive  
30 screening and assessment process for chemical dependency and mental  
31 disorders developed under RCW 70.96C.010 (as recodified by this act).

32 NEW SECTION. **Sec. 529.** RCW 43.135.03901 is decodified.

33 **Sec. 530.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each  
34 amended to read as follows:

35 (1) **No prior offenses in seven years.** Except as provided in RCW  
36 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
2 within seven years shall be punished as follows:

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

8 (i) By imprisonment for not less than one day nor more than three  
9 hundred sixty-four days. Twenty-four 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)(a)(i), the  
17 court may order not less than fifteen days of electronic home  
18 monitoring. The offender shall pay the cost of electronic home  
19 monitoring. The county or municipality in which the penalty is being  
20 imposed shall determine the cost. The court may also require the  
21 offender's electronic home monitoring device or other separate  
22 alcohol monitoring device to include an alcohol detection  
23 breathalyzer, and the court may restrict the amount of alcohol the  
24 offender may consume during the time the offender is on electronic  
25 home monitoring; and

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

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

35 (i) By imprisonment for not less than two days nor more than  
36 three hundred sixty-four days. Forty-eight consecutive hours of the  
37 imprisonment may not be suspended unless the court finds that the  
38 imposition of this mandatory minimum sentence would impose a  
39 substantial risk to the offender's physical or mental well-being.  
40 Whenever the mandatory minimum sentence is suspended, the court shall

1 state in writing the reason for granting the suspension and the facts  
2 upon which the suspension is based. In lieu of the mandatory minimum  
3 term of imprisonment required under this subsection (1)(b)(i), the  
4 court may order not less than thirty days of electronic home  
5 monitoring. 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 to include an alcohol  
9 detection breathalyzer or other separate alcohol monitoring device,  
10 and the court may restrict the amount of alcohol the offender may  
11 consume during the time the offender is on electronic home  
12 monitoring; and

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

16 (2) **One prior offense in seven years.** Except as provided in RCW  
17 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
18 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
19 within seven years shall be punished as follows:

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

25 (i) By imprisonment for not less than thirty days nor more than  
26 three hundred sixty-four days and sixty days of electronic home  
27 monitoring. In lieu of the mandatory minimum term of sixty days  
28 electronic home monitoring, the court may order at least an  
29 additional four days in jail or, if available in that county or city,  
30 a six-month period of 24/7 sobriety program monitoring pursuant to  
31 RCW 36.28A.300 through 36.28A.390, and the court shall order an  
32 expanded alcohol assessment and treatment, if deemed appropriate by  
33 the 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. Thirty  
40 days of imprisonment and sixty days of electronic home monitoring may

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (5) **Monitoring.**

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

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

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

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

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

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

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

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

37 (b) In any case in which the person has no prior offenses within  
38 seven years, and except as provided in RCW 46.61.502(6) or  
39 46.61.504(6), order an additional twenty-four hours of imprisonment  
40 and a fine of not less than one thousand dollars and not more than

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

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

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

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

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

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

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

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

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

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

37 (a) **Penalty for alcohol concentration less than 0.15.** If the  
38 person's alcohol concentration was less than 0.15, or if for reasons  
39 other than the person's refusal to take a test offered under RCW

1 46.20.308 there is no test result indicating the person's alcohol  
2 concentration:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (x) A conviction for a violation of RCW 46.61.520 committed while  
29 under the influence of intoxicating liquor or any drug, or a  
30 conviction for a violation of RCW 46.61.520 committed in a reckless  
31 manner or with the disregard for the safety of others if the  
32 conviction is the result of a charge that was originally filed as a  
33 violation of RCW 46.61.520 committed while under the influence of  
34 intoxicating liquor or any drug;

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

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

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

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

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

14 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
15 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
16 ordinance, if the charge under which the deferred prosecution was  
17 granted was originally filed as a violation of RCW 46.61.502 or  
18 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
19 46.61.522;

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

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

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

36 (b) "Treatment" means (~~alcohol or drug~~) substance use disorder  
37 treatment approved by the department of social and health services;

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

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

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

6 **Sec. 531.** RCW 46.61.5056 and 2011 c 293 s 13 are each amended to  
7 read as follows:

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

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

27 (3) Standards for approval for alcohol treatment programs shall  
28 be prescribed by the department of social and health services. The  
29 department of social and health services shall periodically review  
30 the costs of alcohol information schools and treatment programs.

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

1 health services. Upon three such failures by an agency within one  
2 year, the department of social and health services shall revoke the  
3 agency's approval under this section.

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

7 **Sec. 532.** RCW 82.04.4277 and 2014 c 225 s 104 are each amended  
8 to read as follows:

9 (1) A health or social welfare organization may deduct from the  
10 measure of tax amounts received as compensation for providing mental  
11 health services or chemical dependency services under a government-  
12 funded program.

13 (2) A behavioral health organization may deduct from the measure  
14 of tax amounts received from the state of Washington for distribution  
15 to a health or social welfare organization that is eligible to deduct  
16 the distribution under subsection (1) of this section.

17 (3) A person claiming a deduction under this section must file a  
18 complete annual report with the department under RCW 82.32.534.

19 (4) The definitions in this subsection apply (~~to this section~~)  
20 throughout this section unless the context clearly requires  
21 otherwise.

22 (a) "Chemical dependency" has the same meaning as provided in RCW  
23 70.96A.020.

24 (b) "Health or social welfare organization" has the meaning  
25 provided in RCW 82.04.431.

26 (~~(b)~~) (c) "Mental health services" and "behavioral health  
27 organization" have the meanings provided in RCW 71.24.025.

28 (5) This section expires (~~August 1, 2016~~) January 1, 2020.

29 NEW SECTION. **Sec. 533.** A new section is added to chapter 71.24  
30 RCW to read as follows:

31 (1) The department and the Washington state health care authority  
32 shall convene a task force including participation by a  
33 representative cross-section of behavioral health organizations and  
34 behavioral health providers to align regulations between behavioral  
35 health and primary health care settings and simplify regulations for  
36 behavioral health providers. The alignment must support clinical  
37 integration from the standpoint of standardizing practices and  
38 culture in a manner that to the extent practicable reduces barriers

1 to access, including reducing the paperwork burden for patients and  
2 providers. Brief integrated behavioral health services must not, in  
3 general, take longer to document than to provide. Regulations should  
4 emphasize the desired outcome rather than how they should be  
5 achieved. The task force may also make recommendations to the  
6 department concerning subsections (2) and (3) of this section.

7 (2) The department shall collaborate with the department of  
8 health, the Washington state health care authority, and other  
9 appropriate government partners to reduce unneeded costs and burdens  
10 to health plans and providers associated with excessive audits, the  
11 licensing process, and contracting. In pursuit of this goal, the  
12 department shall consider steps such as cooperating across divisions  
13 and agencies to combine audit functions when multiple audits of an  
14 agency or site are scheduled, sharing audit information across  
15 divisions and agencies to reduce redundancy of audits, and treating  
16 organizations with multiple sites and programs as single entities  
17 instead of as multiple agencies.

18 (3) The department shall review its practices under RCW  
19 71.24.035(5)(c)(i) to determine whether its practices comply with the  
20 statutory mandate to deem accreditation by recognized behavioral  
21 health accrediting bodies as equivalent to meeting licensure  
22 requirements, comport with standard practices used by other state  
23 divisions or agencies, and properly incentivize voluntary  
24 accreditation to the highest industry standards.

25 (4) The task force described in subsection (1) of this section  
26 must consider means to provide notice to parents when a minor  
27 requests chemical dependency treatment, which are consistent with  
28 federal privacy laws and consistent with the best interests of the  
29 minor and the minor's family. The department must provide a report to  
30 the relevant committees of the legislature by December 1, 2016.

31 NEW SECTION. **Sec. 534.** The department of social and health  
32 services and the Washington state health care authority shall report  
33 their progress under section 533 of this act to the relevant  
34 committees of the legislature by December 15, 2016.

35 **PART VI**

36 **REPEALERS FOR ADMINISTRATIVE PROVISIONS**



