

2027 EDITION

WHATCOM COUNTY

DUI QUICK GUIDE

A guide to the DUI process in the courts of Whatcom County, Washington

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CHAPTER 1

Your Driver's License and the DOL

If you are arrested for DUI, the Department of Licensing (DOL) will move to suspend or revoke your license if your breath or blood test was 0.08 or more, or if you refused the breath test. This happens regardless of the outcome of your criminal case.

You have only 7 days from your arrest to request a DOL hearing, with the **$375 fee** (the fee may be waived if you cannot afford it). If you do not, your license will be suspended or revoked beginning 30 days after your arrest.

The DOL Hearing

A DOL hearing officer decides whether the officer had a valid basis to stop or contact you, whether there was probable cause to arrest you, whether you were properly advised of the implied consent warnings, and whether the test was properly given and showed 0.08 or more (0.02 for drivers under 21; THC 5.00 or more). Hearings are usually held by phone or video. The hearing also lets your attorney question the arresting officer under oath, which can be very valuable for your criminal defense. If you lose, you may appeal to superior court within 30 days.

Suspensions and SR-22 Insurance

A suspension also requires SR-22 (high-risk) insurance for three years. Washington shares suspensions and convictions with other states through the Driver License Compact.

Drivers Under 21

Drivers under 21 face a 90-day suspension for a first incident, or one year or until age 21 (whichever is longer) for a second. The same 7-day hearing deadline applies.

Ignition Interlock License

If your license is suspended, you may be able to keep driving with an Ignition Interlock License (IIL). You must install an interlock device in every vehicle you drive and carry SR-22 insurance. An employer's vehicle may be exempt if your employer signs a waiver; a self-employed person may qualify for an exemption only if the vehicle is used exclusively for work. You may not drive a commercial vehicle with an IIL.

Deferred Prosecution and Your License

If you plan to seek a deferred prosecution (Chapter 6), file the DOL's **Intent to Seek Deferred Prosecution** form before your DOL hearing. The DOL will stay your suspension for up to 150 days from the date the DUI is filed in court. Once the deferred prosecution is granted, you must apply for a probationary license within 45 days and install an interlock device. This does not help in a refusal case.

Commercial Drivers (CDL)

CDL holders face strict rules. Any alcohol while driving a commercial vehicle brings a 24-hour out-of-service order, and 0.04 or more (or a refusal) leads to disqualification. A DUI in your personal vehicle disqualifies you from commercial driving for at least one year; a second violation, for life. For CDL purposes, a deferred prosecution counts as a conviction.

CHAPTER 2

Washington DUI Law and Related Offenses

DUI (RCW 46.61.502)

You commit DUI if you drive with an alcohol concentration of 0.08 or more, or a THC concentration of 5.00 or more, within two hours after driving, or while under the influence of or affected by alcohol, cannabis, or any drug, legal or illegal. A valid prescription is not a defense.

Physical Control (RCW 46.61.504)

You can be charged without driving at all if you are in "actual physical control" of a vehicle, meaning you are in a position to operate it and have the means to do so (usually, the keys are within reach).

Minor DUI (RCW 46.61.503)

Drivers under 21 are guilty of a minor DUI with an alcohol concentration of at least 0.02 or any detectable THC. It is a misdemeanor punishable by up to 90 days in jail and a $1,000 fine.

Prior Offenses and Felony DUI

Many penalties depend on "prior offenses" within seven years. These include earlier DUIs, a DUI deferred prosecution, and convictions for Reckless Driving, Negligent Driving 1st Degree, or Reckless Endangerment if the charge was **originally filed as a DUI**. A DUI becomes a felony with **three or more prior offenses within 15 years** (10 years before January 1, 2026).

Reduced Charges

Most DUI cases handled by an experienced attorney are resolved by amending the DUI to a lesser charge. The common alternatives are:

- **Reckless Driving:** gross misdemeanor (up to 364 days, $5,000), no mandatory jail, 30-day license suspension, and SR-22 for 3 years.
- **Reckless Endangerment:** gross misdemeanor with no mandatory license suspension.
- **Negligent Driving 1st Degree:** misdemeanor (up to 90 days, $1,000), no mandatory penalties.
- **Negligent Driving 2nd Degree:** a civil infraction, not a crime. Short of dismissal, the best result, but rare.

Since January 1, 2026, Negligent Driving 1st and Reckless Endangerment that result from a DUI charge are “serious traffic offenses” on your driving record.

Watch for 2027: A bill to lower the legal limit from 0.08 to 0.05 passed the State Senate in 2026 but stalled in the House. It is expected to return in the 2027 session. The limit remains 0.08 for now.

CHAPTER 3

DUI Court Procedures

Bail and Release

After arrest you may be released on bail, on a bond (usually about 10% of the bail, paid to a bail bond company), or on personal recognizance. Common release conditions include no driving unless licensed and insured, no alcohol or non-prescribed drugs, and no refusing a breath test. In Whatcom County, judges also commonly order no frequenting bars and taverns. If you have a prior offense, the court must require an ignition interlock device or 24/7 sobriety monitoring. Missing a court date will result in a warrant for your arrest.

Arraignment

Your first court appearance. Plead not guilty and request a jury trial. The judge may impose conditions of release, such as an interlock device or alcohol monitoring.

Pretrial / Omnibus Hearing

Usually 6 to 8 weeks after arraignment. The attorneys discuss the evidence and negotiations; continuances are common while discovery, investigation, or evaluations are completed. With an attorney, your presence may be waived.

Motions

At a motion hearing, the judge decides legal challenges to the evidence. A win can suppress the breath or blood test, field sobriety tests, or your statements, and sometimes leads to dismissal.

Trial

A DUI trial usually lasts two days, with a six-person jury that must agree unanimously. The prosecutor presents the officers and any breath or blood testing witnesses; the defense may present witnesses and you may choose to testify. Since June 2026, accredited private labs may test blood and breath samples; if one tested yours, the lab must make the analyst available for a free defense interview if your attorney requests it at least 30 days before trial.

Sentencing and Probation

At sentencing the judge may impose jail, fines, probation, license suspension, an evaluation and treatment, a victim impact panel, and an interlock device. If your case ends in a conviction, an amended charge, or a deferred prosecution, Whatcom County District Court will place you on active probation and require you to report to the probation office the same day. Expect at least one year of active probation, at $100 per month. Bellingham, Lynden, Everson, and Sumas use the District Court probation office; Blaine and Ferndale have their own.

Appeals

You may appeal within 30 days of your final judgment. A guilty plea generally waives your right to appeal.

CHAPTER 4

DUI Penalties & Conditions

	1st DUI	2nd DUI	3rd DUI
Jail	1 day / 2 days	30 days / 45 days	90 days / 120 days
EHM	—	60 days / 90 days[1]	120 days / 150 days
Fine	$991 / $1,246	$1,246 / $1,671	$2,096 / $2,946
License loss[2]	90 days / 1 year	2 years / 900 days	3 years / 4 years
SR-22 insurance	3 years	3 years	3 years
Ignition interlock[3]	1 year	5 years	10 years
Alcohol/drug evaluation	Yes	Yes	Yes
Victim impact panel	Yes	Yes	Yes
Probation (up to)	5 years	5 years	5 years

Prior offenses are counted within seven years. Where two figures appear, the first is for a BAC under 0.15 and the second for 0.15 or more or a refusal. [1]A court may order 24/7 sobriety monitoring instead of EHM for a second offense. [2]License loss for a refusal is 2, 3, and 4 years. [3]Interlock periods are 1, 5, and 10 years.

Jail and Alternatives

The mandatory minimums cannot be reduced, and judges may impose more for factors such as passengers (especially children), an accident, or a very high BAC.

- **Work release:** you must usually be sentenced to at least 10 days, work in Whatcom County, pay a daily fee, and report to Whatcom County Jail Alternatives ("Alts") right after sentencing.
- **Friendship Diversion:** a supervised alternative used by Bellingham and Blaine.
- **Electronic home monitoring (EHM):** may replace jail for a first offense; it is mandatory in addition to jail for a second or third offense.
- **Community service and work crew:** used only where the judge allows or the charge was reduced.

Conditions You Can Expect

- **DUI victim impact panel:** imposed in practically every case; complete it early.
- **Ignition interlock device:** required by the court or the DOL. It will not shut off a running engine, but it records every test, and violations are reported.
- **SCRAM or portable breath monitoring:** often ordered as a release condition.
- **Restitution:** payment for any damage you caused.
- **SR-22 insurance:** required for three years after a conviction or DOL suspension.
- **Costs:** expect a BAC fee ($250), court and probation costs, and other fees in addition to fines.

CHAPTER 5

Alcohol/Drug Evaluations and Treatment

Almost everyone charged with DUI must obtain an alcohol/drug evaluation from a state-licensed behavioral health agency. Choose the agency with your attorney's help, and first release the results only to your attorney. Bring your driving record, police report, and court papers.

The evaluator will either find no substance use disorder, usually recommending the 8-hour Alcohol and Drug Information School (ADIS), or diagnose a mild, moderate, or severe disorder and recommend outpatient, intensive outpatient, or residential treatment. If you are convicted, the court will order you to complete the recommendation; ADIS is the minimum. Getting the evaluation done early can shorten probation and strengthen your negotiating position.

CHAPTER 6

Deferred Prosecution

A deferred prosecution lets a person whose offense resulted from a substance use disorder or mental health problem

complete a two-year treatment program in exchange for dismissal of the charge after five years, with no jail and, in most cases, no loss of license (RCW 10.05).

Eligibility

You need an assessment from a state-approved agency finding a treatable problem and that you are committed to treatment. Since January 1, 2026, if you completed a deferred prosecution for a first-time DUI and have no other prior offenses, you may petition for a second one.

Requirements

- Two years of treatment: intensive outpatient or residential treatment, then weekly counseling for at least six months, then monthly contact.
- Total abstinence from alcohol and non-prescribed drugs, with random testing.
- At least two self-help meetings (such as AA) per week.
- Supervised probation, an ignition interlock device, and monthly reports to the court.

The Risks

Failing the program is serious: it is revoked, and you are found guilty on the police reports, often with harsher penalties. A deferred prosecution also counts as a prior offense if you are arrested for DUI again within seven years. Treat this option as a serious commitment, and decide with your attorney.

This quick guide provides general information about Washington law as of November 2026. It is not legal advice. For advice about your case, consult a Washington attorney.