

.WATCH East Program ELIGIBILITY, ADMISSION & SENTENCING/ DUI STATUTE

A. Screening Guidelines

The WATCH East Program is designed to serve the treatment needs of adults (18 years of age and older) who have been convicted of a fourth or subsequent DUI. Generally, all offenders convicted of a fourth or subsequent DUI will be accepted. However, some exclusion may apply, such as: sex offenses, violent crimes, multiple convictions requiring a higher supervision level, medical conditions impacting the offender's ability to participate, cognitive impairments, etc. Based on assessment results, the screening committee may refer an offender with medical or psychiatric problems back to a State prison for stabilization prior to acceptance. A program screening committee will determine acceptance into the Program and the referent will be notified of the individual's acceptance or denial into the Program. If an individual is accepted and later it is determined that the individual has misrepresented themselves on their application and their criminal history or medical problems would have prevented them from being accepted by the screening team, they can be sent to another state facility for assessment, evaluation, or medical care.

B. DUI Statute:

Most, but not all, of the Family Members who enter the WATCH East Program have been convicted of violating Montana Code Annotated (MCA): 61-8-401, 61-8-406, 45-5-104 or 45-5-205. MCA 61-8-731 establishes the sentencing requirements for conviction of these laws. MCA 61-8-731 states: *(Please note that the sentencing guideline changed, effective October 1, 2005, for individuals convicted of a second felony DUI offense and who have previously been admitted to the WATCH Program – see section 3.)*

Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- penalty for fourth or subsequent offense.

- (1) On the fourth or subsequent conviction, the person is guilty of a felony and shall be punished by:
 - (a) Sentencing the person to the department of corrections for placement in an appropriate correctional facility or program **for a term up to 24 months. The court shall order that if the person successfully completes a residential alcohol treatment program operated or approved by the department of corrections, the remainder of the 13-24 month sentence must be served on probation. The imposition or execution of the 13-24 month sentence may not be deferred or suspended, and the person is not eligible for parole.**
 - (b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more

than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and
(c) A fine in an amount of not less than \$1,000 or more than \$10,000.

- (2) The Department of Corrections may place an offender sentenced under subsection (1) (a) in a residential alcohol treatment program operated or approved by the Department of Corrections or in a state prison.
- (3) If a person is convicted of a violation of 61-8-401 or 61-8-406, the person has any combination of four or more prior convictions under 45-5-104, 45-5-205, 61-8-401, or 61-8-406 and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment program under subsection (2), whether or not the person successfully completed the program, the person shall be sentenced to the department of corrections **for a term of not less than 13 months or more than 5 years** and be fined an amount of not less than \$1,000 or more than \$10,000, or both.
- (4) The court shall, as a condition of probation, order:
- (a) That the person abides by the standard conditions of probation promulgated by the Department of Corrections;
 - (b) A person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment under this section;
 - (c) That the person may not frequent an establishment where alcoholic beverages are served;
 - (d) That the person may not consume alcoholic beverages;
 - (e) **That the person may not operate a motor vehicle unless authorized by the person's probation officer;**
 - (f) **That the person enters in and remains in an aftercare treatment program for the entirety of the probationary period;**
 - (g) That the person submit to random or routine drug and alcohol testing;
and
 - (h) **That if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system.**
- (5) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited to:
- (a) payment of a fine as provided in 46-18-231;
 - (b) payment of costs as provided in 46-18-232 and 46-18-233;
 - (c) payment of costs of court-appointed counsel as provided in 46-8-113;
 - (d) community service;
 - (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society; or

(f) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(e).

(6) Following initial placement of a defendant in a treatment facility under subsection (2), the Department of Corrections may, at its discretion, place the offender in another facility or program.

(7) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and 46-23-1031 apply to persons sentenced under this section.

For more information please contact:

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