

# DEFERRED PROSECUTION

## RULE AND FORMS

### LCRrLJ 3.3 TIME FOR TRIAL

(k) Deferred Prosecution

- (1) Petition for Deferred Prosecution under Section 10.05 of the Revised Code of Washington, shall be filed (14) days before the date set for trial on forms approved by the Court.
- (2) The written assessment by an approved treatment facility shall be accompanied by a recommendation for the Probation Officer, or such Court Appointee authorized under Chapter.
- (3) When the Court denies the Petition for a Deferred Prosecution, timely filed under this rule, the case shall proceed to trial as previously set.
- (4) In the event the Petition for Deferred Prosecution is approved by the Court, the defendant may be under the supervision of the Probation Department, Court Appointee pursuant to Section 10.05.170 of the Revised Code of Washington. A defendant who refuses, fails or neglects to comply with an order or request of the Probation Office or Court Appointee, or the terms of his deferred prosecution may have it revoked.

**IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,	)	CASE NO. _____
Plaintiff,	)	
	)	
	)	CHARGE(S): _____
vs.	)	
	)	
_____	)	
Defendant.	)	PETITION FOR DEFERRED PROSECUTION

I am the defendant in this case, and I petition the Court for deferred prosecution under RCW Chapter 10.05. I make the following statement in support of my petition:

1. The wrongful conduct charged is the result of or caused by  **Substance Use Disorders** and/or  **Mental Illness**, for which I need treatment.
2. Unless I receive treatment for my problem, the probability is great that I will offend again.
3. I agree to pay the cost of diagnosis and treatment, if I am financially able to do so, subject to RCW 10.05.130.
4. I understand that the Court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from alcoholism, drug addiction, or mental problems.
5. If this charge is a violation of Title 46 RCW or similar municipal ordinance, I have not previously been placed on a deferred prosecution for a Title 46 RCW or similar municipal ordinance violation.
6. I have filed a case history and assessment with this petition as required by RCW 10.05.020.
7. **I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to have a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is (are) proved beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I give up my right to: (a) a speedy trial; (b) a jury; (c) testimony on my own behalf; an opportunity to (d) call and (e) question witnesses; and (f) present evidence or a defense.**

8. I agree that the facts as reported in the attached police reports are admissible evidence and are sufficient to support a conviction. I acknowledge that the above items will be used to support a finding of guilty if the deferred prosecution is revoked.
9. If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law.
10. If I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.
11. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a seven-year period. I understand that a deferred prosecution will be a prior offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle under the influence, negligent driving if originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).
12. If the Court defers prosecution on any crime that would be a violation of state law or local ordinance relating to motor vehicle traffic control, I will be disqualified from driving a commercial motor vehicle for the period specified in RCW 46.25.090 and, if I drive a commercial motor vehicle holding a license issued by Washington State, I will be required to notify the Department of Licensing and my employer of this deferred prosecution within 30 days of the judge granting this petition. RCW 46.25.030.
13. If the Court grants this Petition, I may not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance pursuant to RCW 46.29.490.
14. If my wrongful conduct is the result of or caused by alcohol dependency, I shall also be required to install an ignition interlock device under RCW 46.20.720. The required periods of interlock use shall be not less than the periods provided for in RCW 46.20.720, and subject to certification from the ignition interlock device vendor RCW 46.20.720(4).
15. I may also be required to pay restitution to victims, pay Court costs, pay probation costs, and other costs as authorized by law.
16. To help ensure continued sobriety and reduce the likelihood of reoffending, the Court may order reasonable conditions during the period of the deferred prosecution including, but not limited to:
  - Attendance at self-help recovery support groups for alcoholism or drugs
  - Substance use disorder treatment programs that require a minimum of two (2) self-help recovery groups per week for the duration of the treatment program.
  - Maintain law-abiding behavior.

17. If the Court grants this petition, during the period of deferred prosecution I will be required to contact my probation officer, the probation director or designee, or the Court if there is no probation department, to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington state. I understand that I will be required to pay an application fee with my travel or transfer request.
18. If I fail or neglect to comply with any part of my treatment plan, any ignition interlock device requirements, or any other conditions ordered by the Court, a hearing will be held to determine whether the deferred prosecution will be revoked or maintained. If the deferred prosecution is revoked, the police report and any attachments shall be read on the record and admitted as evidence to determine whether there is evidence to support a conviction beyond a reasonable doubt. **If I am convicted of a similar offense during the deferred prosecution, the Court shall revoke the deferred prosecution and enter judgement if the evidence supports the charge beyond a reasonable doubt.** Upon a finding of guilt, sentencing would immediately follow.
19. The Court will dismiss the charge(s) against me in this case three years from the end of the two-year treatment program having been successfully completed, and that I have fully complied with all conditions imposed by the Court including successful completion of the two-year treatment program. The Court shall review the Deferred Prosecution file for dismissal (5) five years from the date the Deferred Prosecution is granted.

I certify under penalty of perjury under the laws of the State of Washington that I have read the foregoing and agree with all of its provisions and that all statements made are true and correct.

Dated at Spokane, Washington this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Petitioner (Print Name)

\_\_\_\_\_  
 Attorney for Petitioner (Print Name)

\_\_\_\_\_  
 Signature of Petitioner

\_\_\_\_\_  
 Signature of Attorney, WSBA#

DISTRICT COURT COMPLIES WITH AMERICANS WITH DISABILITIES ACT (ADA). PERSONS WITH DISABILITIES THAT WOULD REQUIRE ACCOMODATIONS SHOULD CALL THE COURT AT 509-477-3661, TDD AVAILABLE.

**IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON, Plaintiff,	)	CASE NO. _____
	)	
	)	CHARGE(S): _____
vs.	)	_____
	)	
_____ ,	)	ORDER DEFERRING PROSECUTION
Defendant.	)	

THIS MATTER having come on for hearing this date and the Court finding: That the report heretofore ordered, pursuant to RCW, Chapter 10.05, recommends treatment for the defendant for:

- Substance Use Disorder; or
- Mental Illness

and proposes a treatment plan.

That the petitioner has agreed to comply with the terms and conditions of the order deferring prosecution, and has agreed to pay the cost of the plan; that the findings of the referral agency are correct and are now accepted as Court findings, and further, the Court finds that the petitioner has stipulated to the admissibility of the facts contained in the written police report; that the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense(s) held subsequent to revocation of the order granting deferred prosecution; and that the petitioner's statements were made knowingly and voluntarily.

Further, the Court finds that the petitioner has knowingly and voluntarily waived their right to a) a speedy trial; b) a jury; c) testimony on their own behalf; d) an opportunity to call and question witnesses; and e) present evidence or a defense.

**NOW THEREFORE, IT IS HEREBY ORDERED:**

1. The defendant is accepted for deferred prosecution;

2. The defendant shall comply with all the terms and conditions of the recommended treatment plan, including all financial obligations, a copy of which is attached and all requirements of this order deferring prosecution;
3. This order shall be attached to the docket, and thereby become a part thereof, which docket shall be removed from the regular Court docket and placed in the deferred prosecution file for a period of five (5) years from this date, subject to removal; further prosecution of the defendant, or dismissal, all pursuant to RCW 10.05;
4. The defendant shall be placed under the supervision of the District Court Probation Department for the period of the Deferred Prosecution (a minimum of five years) and is ordered to pay the following fees:

**Probation Fee**

- Probation Monitoring Fee of \$2400.00  
Or
- Probation Fee Waived. (RCW 10.01.160)

**Breath Test Program Fee or Blood Draw Fee / Administrative Costs / DUI Cost Recovery**

- Breath Test Program Fee \$250.00  
BAC Breath Test Levels: \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_
- Blood Draw Fee \$30.00 (If not included in DUI Cost Recovery)  
Blood Draw BAC: \_\_\_\_\_  
Drugs in blood: \_\_\_\_\_
- Administrative costs to the Clerk of Court in the amount of \$\_\_\_\_\_.  
RCW 10.01.160
- DUI Cost Recovery (RCW 38.52.430) \$\_\_\_\_\_
- Other \_\_\_\_\_
- The Probation Monitoring Fee, Breath Test Program Fee, Administrative Costs, and DUI Cost Recovery shall be paid in installments of no less than \$50 per month. The first installment is due on \_\_\_\_\_ and on the same date of each month thereafter until paid in full.
- FEES are waived or reduced to \$\_\_\_\_\_ based upon verified petition of assets and liabilities. RCW 46.61.5054

5. Reports as required by DP Chapter shall be made by the evaluation facility in accordance therewith to the District Court Probation Department;
6. If not currently in treatment, the defendant shall enroll in treatment within \_\_\_\_\_ days.

7. The defendant is ordered to keep the Court Clerk and District Court Probation Department advised, in writing, of all changes of address;
8. The defendant shall not consume any alcohol, non-prescribed drugs, including marijuana during the period of the deferral;
9. The defendant shall not commit any alcohol and/or drug related offenses during the period of the deferral.
10. The defendant will submit to a test of breath or blood to determine the alcohol/drug concentration upon request of the law enforcement officer who has reasonable grounds to believe the defendant was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs;
11. The defendant shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of current liability insurance in the amount not less than that established in Title 46 of the Revised Code of Washington;
12. The defendant shall immediately report any violation of this order to the Probation Department;
13. The defendant shall successfully complete the Victims Panel Program (Alcohol-Driving Offenses) within 60 days;
14. The defendant shall install and maintain an ignition interlock device under RCW 46.20.720 and RCW 46.20.385 as required by the Department of Licensing. This device shall be maintained for not less than the periods provided for in RCW 46.20.720(a), (b), and (c).
15. The defendant shall have no criminal law violations.
16. The defendant shall report to District Court Probation a) immediately; b) within 24 hours; or c) within 48 hours.
17. The defendant shall comply with the additional provisions as follows:

\_\_\_\_\_

\_\_\_\_\_

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 JUDGE

DISTRICT COURT COMPLIES WITH AMERICANS WITH DISABILITIES ACT (ADA). PERSONS WITH DISABILITIES THAT WOULD REQUIRE ACCOMODATIONS SHOULD CALL THE COURT AT 509-477-3661, TDD AVAILABLE.

**IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE  
DEFERRED PROSECUTION REPORT AND RECOMMENDATION**

DEFENDANT'S NAME \_\_\_\_\_ CASE NO. \_\_\_\_\_

JUDGE \_\_\_\_\_ DUE DATE \_\_\_\_\_

Pursuant to the Defendant's application for Deferred Prosecution, the Defendant was evaluated by a qualified treatment facility. The evaluation report is attached. Further, the Probation Department has interviewed the applicant and finds:

1. The applicant is amenable to Probation Department supervision and has agreed to pay a monthly supervision fee of \$\_\_\_\_\_. Applicant has further agreed to all the terms and conditions of supervision.

2. Department of Licensing records show prior Deferred Prosecution as follows:  
\_\_\_\_\_.

3. The treatment program qualifies under the WAC as:  
 Intensive Out-Patient Program  
 In-Patient Program  
 Other:\_\_\_\_\_.

4. The Defendants application for Deferred Prosecution has been filed on forms approved by the Court:  Yes  No

5. The Defendant has signed and agreed to the Conditions on:  
Petition Form 1517 (Rev 03/20) PETITION FOR DEFERRED PROSECUTION  Yes  No  
Order Form 1520 (Rev 03/20) ORDER DEFERRING PROSECUTION  Yes  No

6. The necessary waiver of disclosure has been signed by Defendant:  Yes  No  
The Defendant and treatment facility have been informed that quarterly reports are required as minimum. That pursuant to Section 10.05.170 of the Revised Code of Washington, a semi-annual records check will be made with the Department of Licensing and monthly contact with Petitioner or the treatment agency will be required:  Yes  No

7. The Probation Department recommends the Deferred Petition be:  
 APPROVED  DENIED

\_\_\_\_\_  
(Reason for denial and/or special provisions requested on approval)

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Probation Officer