

**DISTRICT COURT OF THE STATE OF WASHINGTON
COUNTY OF CHELAN**

)	
<input type="checkbox"/> CITY OF WENATCHEE,)	
<input type="checkbox"/> COUNTY OF CHELAN /)	
STATE OF WASHINGTON,)	No.
Plaintiff,)	
vs.)	
)	PETITION FOR DEFERRED PROSECUTION
_____)	
Defendant.)	
_____)	

I am the defendant in this case and I petition for deferred prosecution under Ch. 10.05 RCW. I make the following statements in support of my petition:

1. The wrongful conduct charged is the result of or caused by substance use disorders mental problems domestic violence behavior, 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 they are innocent of the crime(s) charged or do not suffer from alcoholism, drug addiction, mental problems, or domestic violence behavior 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. If this charge is a domestic violence offense, I have not previously been placed on a deferred prosecution for a domestic violence offense, this charge was not originally charged in superior court as a felony offense, and a prior stipulated order of continuance was not previously granted.
7. I have filed a case history and assessment with this petition as required by RCW 10.05.020.
8. 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 behalf; (d) an opportunity to call witnesses and question witnesses, and (e) present evidence or a defense.

9. 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.
10. If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum sentence allowed by law.
11. 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.
12. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a 7-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).
13. 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 pursuant to RCW 46.25.030. 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. If my wrongful conduct is the result of or caused by alcohol dependency, I will be required to install an ignition interlock device under RCW 46.20.720. The required periods of interlock use shall not be less than the periods for in RCW 46.20.720 and subject to certification from the ignition interlock device vendor. I may also be required to pay restitution to victims, pay court costs, and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of re-offense, 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, complete abstinence from alcohol from alcohol and all nonprescribed mood-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Substance use disorder treatment programs shall require a minimum of 2 self-help recovery groups per week for the duration of the treatment program. The court may terminate the deferred prosecution program if I violate this paragraph.

14. If the court defers prosecution for any crime involving domestic violence behavior, I will be ordered not to possess firearms and I will be ordered to surrender firearms in my possession under RCW 9.41.800. The court may order me to make restitution and to pay costs under RCW 10.01.160. The court may also order reasonable conditions during the deferred prosecution to ensure continued sobriety and reduce the likelihood of re-offense in co-occurring domestic violence and substance abuse or mental health cases. These conditions include, but are not limited to, attendance at a self-help recovery support group for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mood-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program if I violate the deferred prosecution order.
15. A deferred prosecution program for domestic violence behavior co-occurring with substance abuse or mental health must include, but is not limited to, the following requirements: (a) completion of a risk assessment; (b) participation in the level of treatment recommended by the program as outlined in the current treatment plan; (c) compliance with the contract for treatment; (d) participation in the ancillary or co-occurring treatments that are determined to be necessary for the successful completion of the domestic violence intervention treatment, but not limited to, mental health or substance abuse treatment; (e) domestic violence intervention treatment within the purview of this section to be completed with a state-certified domestic violence intervention treatment program; (f) signature of the petitioner agreeing to the terms and conditions of the treatment program; and (g) proof of compliance with any active order to surrender weapons issued in this program or related civil protection orders or no contact orders.

16. 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: (a) an offense in which a person has incurred direct or threatened physical or psychological harm; (b) an offense that involves the use or possession of a firearm; (c) a second or subsequent misdemeanor offense of driving while impaired by alcohol or drugs; or (d) 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.

17. If I fail or neglect to comply with any part of my treatment plan or with any ignition interlock device requirements, then the court will hold a hearing to determine whether I should be removed from the deferred prosecution program. After the hearing, the court will either order that I continue with treatment or be removed from deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will revoke the deferred prosecution and enter judgment.

18. The court will dismiss the charge(s) against me in this case 3 years from the end of the 2-year treatment program and following proof to the court that I have complied with the conditions imposed by the court following successful completion of the 2-year treatment program, but no less than five years from the date the deferred prosecution is granted, if the court grants this petition and if I fully comply with all the terms of the court order placing me on deferred prosecution. However, when a deferred prosecution is ordered for a petition brought under RCW 10.05.020(1) involving a domestic violence behavior problem, and the court has received proof that I have successfully completed the domestic violence treatment plan, the court shall dismiss that charge(s) pending against me pursuant to RCW 10.05.120(3).

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 are true and correct.

Signed at _____, Washington this ____ day of _____, 20__.

 Petitioner/Defendant

 Defense Attorney, WSBA _____

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

STATE OF WASHINGTON)	
)	NO. _____
Plaintiff,)	
)	ORDER OF REFERRAL
vs.)	FOR EVALUATION
)	
)	
_____)	
Defendant.)	
_____)	

THIS matter coming on before the above-entitled court on defendant's Petition for Deferred Prosecution, and the court having examined the petition filed by the defendant and the affidavit attached thereto, finds that the defendant is charged with a gross misdemeanor crime of Driving While Intoxicated which may be the result of or caused by an alcohol problem for which the defendant is in need of treatment; that, unless the problem is treated, the probability of future reoccurrence of the alleged crime is great, and the defendant has agreed to pay the costs of diagnosis and evaluation.

NOW, THEREFORE, said defendant is hereby referred to _____ located at _____ in _____, WASHINGTON, an approved treatment agency, for an evaluation and diagnosis of defendant's alcohol problem to determine, after a thorough investigation and examination, if:

1. The defendant suffers from the problem mentioned herein;
2. If the problem is not treated whether there is a probability that similar misconduct will occur in the future;
3. Whether extensive and long-term treatment is required and would be effective if instituted; and
4. Whether effective treatment is available and what that treatment would include.

The approved treatment agency shall report, in writing, to the court its findings and recommendations; and if treatment is recommended it shall set out a treatment plan showing:

- (a) The type of treatment;
- (b) The nature of the treatment;
- (c) The length of said treatment;
- (d) A treatment time schedule; and
- (e) The approximate cost of said treatment plan.

Said report shall be filed with this court for its consideration on or before the _____ day of _____, 20____. A copy of said report shall be furnished to the defendant's attorney and to the prosecuting attorney.

DATED this _____ day of _____, 20____.

DISTRICT COURT JUDGE

Presented by:

WSBA _____
Attorney for Defendant

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.)
)
 _____,)
)
 Defendant.)
 _____)

NO. _____

STATEMENT OF DEFENDANT ON
PETITION FOR DEFERRED
PROSECUTION/STIPULATION TO
FACTS

1. My true name is above set forth. My date of birth is _____, and I have completed the _____ grade of school.
2. I understand that I am charged with the offense(s) of _____, which occurred in Washington State, with a violation date of _____. I am petitioning for deferred prosecution on the above charge(s).
3. The court has advised me of the following constitutional rights:
 - (a) I have the right to representation by a lawyer, and if I cannot afford to pay for a lawyer, one will be provided for me at public expense.
 - (b) I have the right to a speedy and public trial by an impartial jury in the place where the crime is alleged to have been committed.
 - (c) I have the right to remain silent, before and during trial, and I need not testify against myself.
 - (d) I have the right at trial to confront witnesses who testify against me, and I have the right at trial to have witnesses testify for me, and they can be made to appear at no expense to me.
 - (e) I am presumed innocent until a charge is proved beyond a reasonable doubt, or I enter a plea of guilty.
 - (f) I have the right to appeal a finding, after trial, of guilt.
4. If I proceed to trial and am found guilty, I may be allowed to seek suspension of some or all of the fines or incarceration (jail sentence) that may be ordered, upon the condition that I seek treatment.
5. I may seek treatment from public and private agencies at any time without regard to whether or not I am guilty of the offense(s) charged.

6. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes he or she is innocent of the offense(s) charged or does not, in fact, suffer from the problems alleged in the petition. I sincerely believe I suffer from the problems alleged in my petition for deferred prosecution. I further do not sincerely believe that I am innocent of the charge(s) indicated above.

7. I understand that as a condition of granting the deferred prosecution petition, the court may order me to pay restitution for any damages incurred by individuals as a result of the offense for which I am charged, and the court may order payment of court costs. I further understand that the court may terminate/revoke my deferred prosecution program for failure to pay restitution or court costs.

8. I understand that as a condition of granting a deferred prosecution petition, the court will enter an order that I may not operate a motor vehicle upon a public highway without a valid operator's license and proof of liability insurance. The court may also order the installation of an ignition interlock or other device pursuant to RCW 46.20.720, and may enter an order requiring that I attend a DUI Victim Impact Panel. I further understand that the court will terminate/revoke my deferred prosecution program if I am convicted of a similar offense, and that the court may terminate/revoke my deferred prosecution program for failure to comply with any of the conditions established by the court as part of my deferred prosecution program.

9. I am submitting my case on the record pursuant to RCW 10.05.020. I understand that by doing so I am stipulating to the admissibility, sufficiency, and accuracy of the evidence contained in the reports and relevant materials (including but not limited to the written police report, DUI ARREST REPORT, and any attachment thereto). I understand that if I am revoked from the deferred prosecution program, my case will be set for trial and the reports and relevant materials will be entered and used to support a finding of guilt. I agreed that there is sufficient evidence contained in the reports and relevant materials to convict me of the charge(s) above. I understand that my trial will consist of a judge reading the reports and relevant materials and deciding on that evidence alone if I am guilty of the charge.

10. I understand that by submitting my case on the record, I am giving up the Constitutional right to a jury trial, the right to a speedy trial, the right to hear and question witnesses, the right to call witnesses in my own behalf, and the right to testify or not to testify. I understand that I am waiving the right to raise any defenses I may have to the above charge.

11. No one has made any threats or promises to persuade me to submit my case on the record. I agree that I have knowingly and voluntarily submitted my case on the record, and that I understand the contents of this document. I understand that this document will be entered and used to support a finding of guilt if the court finds cause to revoke my deferred prosecution. I have read, or have had read to me this document, understand its contents, and have no further questions to ask of the court.

I hereby certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated in Wenatchee, Washington this _____ day of _____, 20 _____.

Defendant

This matter coming before the court for entry of an Order Deferring Prosecution, the court makes the following findings with regard to the defendant/petitioner's execution of the foregoing statement. The above statement as well as these findings shall be incorporated into the Order Deferring Prosecution by this reference thereto.

(a) That the petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report and other relevant materials referenced above.

(b) That the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution.

(c) That the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial.

(d) That the petitioner's statements were made knowingly and voluntarily.

Presented by:

Approved for entry:

Deputy Prosecuting Attorney

Defense Counsel

Approved this _____ day of _____ 20 _____.

Judge

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

STATE OF WASHINGTON,)	No.
CITY OF WENATCHEE,)	
Plaintiff,)	ORDER DEFERRING PROSECUTION
vs.)	
)	
_____)	
Defendant.)	

FINDINGS OF FACT

- 1.1 The Petitioner suffers from alcoholism, drug addiction, or mental problems and has agreed to comply with the terms and conditions of the treatment plan prepared pursuant to RCW 10.05, and to pay the costs of diagnosis and treatment;
- 1.2 The Petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report(s);
- 1.3 The Petitioner has agreed and acknowledged that the written police reports and any other documents, reports or evidence filed in this case are admissible against the Petitioner in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution;
- 1.4 The Petitioner has acknowledged and waived the right to a speedy trial, the right to a jury trial, the right to testify and to call witnesses to testify, the right to confront and question witnesses; and the right to present evidence in his or her defense;
- 1.5 The Petitioner's stipulations, admissions, and statements were made knowingly and voluntarily.

ORDER

IT IS HEREBY ORDERED that the Defendant is accepted for deferred prosecution and shall comply with the following conditions:

- 2.1 The Defendant shall comply with all of the terms and conditions of the two-year treatment program, a copy of which is attached and incorporated herein by reference. The Defendant shall pay for the costs of treatment and shall not change treatment agencies without prior approval of the Court.
- 2.2 The Defendant shall authorize the treatment agency to communicate freely with the Court and the Probation Office regarding the Defendant's treatment progress. The treatment agency shall submit monthly reports to the Probation Office for the entire treatment period. In the event that the Defendant fails or neglects to comply with any term or condition of the treatment program, the treatment agency shall immediately submit a written report of such breach to the Probation Office.
- 2.3 The Petitioner will be under the deferred prosecution supervision of the Chelan County District Court Probation Office for five (5) years and will comply with all terms and conditions established by that office to monitor and enforce compliance with this Order and shall pay all costs of supervision through the Probation Department.
- 2.4 The Defendant shall pay court costs of \$250, an Alcohol Violators fee of \$200 pursuant to RCW 46.61.5054, and a public defender recoupment of _____, for a total of _____, not including

probation fees or restitution.

2.5 The Defendant shall immediately notify the Court Clerk as well as the Probation Department, in writing, of all changes in address.

2.6 The Defendant shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance as established by RCW 46.29.490.

2.7 The Defendant will not refuse to submit to a breath, blood, or urine test for alcohol or drug content upon request by law enforcement, the probation department, treatment provider, or the court.

2.8 The Defendant will not possess, consume or otherwise acquire any alcohol, non-prescribed controlled substances, or drug paraphernalia and will not enter any bar, tavern, or alcohol establishment for the entire length of the deferred prosecution period (five years). Such prohibition includes medical marijuana unless otherwise specifically ordered by the court.

2.9 The Defendant shall attend a DUI victim impact panel within 60 days of entry of this order.

2.10 For a period of _____ year(s) or as directed by the Department of Licensing, the Defendant shall have a functioning ignition interlock installed in any motor vehicle that he or she operates. The Defendant shall provide written verification of the installation to the Probation Department within 30 days of entry of this order deferring prosecution. The Defendant shall comply with all rules and regulations of the Department of Licensing regarding the ignition interlock device and ignition interlock license.

2.11 The Defendant shall not commit any criminal law violations, including but not limited to any alcohol or drug-related offenses, during the five-year period of the deferred prosecution

2.12 Restitution shall be paid to the following victims:

Name: _____ Amount: _____

Address: _____

Name: _____ Amount: _____

Address: _____

2.13 Other: _____

DONE IN OPEN COURT this ____ day of _____, _____.

JUDGE/JUDGE PRO TEM

Presented by:

Copy Received:

Attorney for Defendant, WSBA#

Defendant

Copy received and approved as to form:

Deputy Prosecuting Attorney, WSBA#



CHELAN COUNTY DISTRICT COURT
350 ORONDO AVE 4TH FLOOR
WENATCHEE WA 98801
509-667-6600

**REQUEST FOR DECISION ON WRITTEN STATEMENT
**TO BE COMPLETED AND RETURNED TO THE COURT IF WISHING
TO HAVE A HEARING BY MAIL RATHER THAN PERSONAL
APPEARANCE****

*****PLEASE NOTE THAT AFTER REVIEW OF YOUR STATEMENT, THE JUDGE MAY REQUIRE AN IN
COURT HEARING BE SET*****

Name: _____

Physical Address: _____

Mailing Address: _____

Citation Number (see upper right corner of citation and/or hearing notice): _____

I wish to mitigate the infraction(s) and seek a fine reduction

I wish to contest the infraction(s)

Statement: _____

(If you need more space, please attach additional sheets of paper, along with any other evidence/
documentation you want the court to consider.

I declare under penalty of perjury of the laws of the State of Washington that the above information and the
information contained in the attachments hereto, is true and correct. I understand that there can be no
appeal from a decision on a written statement pursuant to IRLJ 3.5(e).

Dated this _____ day of _____, 20____ at _____
(City / State)

Defendant Signature