

**KITSAP COUNTY DISTRICT COURT  
STATE OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

Defendant.

No. \_\_\_\_\_

**PETITION FOR DEFERRED PROSECUTION**

\_\_\_ DUI – No Test

\_\_\_ Breath Results – \_\_\_\_\_

\_\_\_ Blood Results – \_\_\_\_\_

\_\_\_ Breath/Blood Refused

\_\_\_ Passenger(s) Under Age 16 – \_\_\_\_\_

\_\_\_ THC – No Test

\_\_\_ THC Results – \_\_\_\_\_

Note (Interim Order) – The Defendant must be in **full compliance** with the *Interim Order Pending Acceptance For Deferred Prosecution* before this document is filed with the Court.

Note (Probation Services Review) – This document must be submitted to Probation Services for review **at least 7 days** before the Court will grant the petition.

I am the Defendant in this case, and I petition the court for deferred prosecution under chapter 10.05 RCW and CrRLJ 4.2(i) for the following charge(s) –

Count	Crime	RCW/Ordinance (with subsection)
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

\_\_\_ Count(s) \_\_\_\_\_ was/were committed against an intimate partner.

\_\_\_ Count(s) \_\_\_\_\_ was/were committed against a family or household member.

\_\_\_ Count(s) \_\_\_\_\_ was/were committed with sexual motivation.

I make the following statements in support of my petition –

1. **Wrongful Conduct.** The wrongful conduct charged for which I need treatment is the result of or caused by –  
\_\_\_\_ substance use disorders.  
\_\_\_\_ mental problems.  
\_\_\_\_ domestic violence behavior.  
RCW 10.05.020(1).
2. **Future Recurrence.** Unless I receive treatment for my problem, the probability is great that I will offend again. RCW 10.05.020(1).
3. **Program Costs.** I agree to pay the cost of diagnosis and treatment, if I am financially able to do so, subject to RCW 10.05.130. RCW 10.05.020(1).
4. **Innocent Or Not Need Treatment.** I understand that the court will not accept a petition for deferred prosecution from a person who –  
(a) Innocent. Sincerely believes they are innocent of the charges; or  
(b) Not Need Treatment. Sincerely believes they do not suffer from alcoholism, drug addiction, mental problems, or domestic violence behavior problems.  
RCW 10.05.020(3).
5. **Title 46 Charge And Prior Title 46 Deferred Prosecution.** 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. RCW 10.05.010(2).
6. **Domestic Violence Charge.** If this charge is a domestic violence offense –  
(a) No Prior Domestic Violence Deferred Prosecution. I have not previously been placed on a deferred prosecution for a domestic violence offense. RCW 10.05.010(2);  
(b) Originally Filed As Felony Domestic Violence Charge. This charge was not originally charged in Superior Court as a domestic violence felony offense. RCW 10.05.010(4); and  
(c) No Prior Domestic Violence SOC (PDA). I have not previously been granted a stipulated order of continuance (or pretrial diversion agreement) for a domestic violence offense.  
RCW 10.05.160(2).
7. **Case History And Assessment.** I have filed a case history and assessment with this petition.  
RCW 10.05.020(1).

8. **My Rights.** I have the following rights to –
- (a) Have a lawyer represent me at all hearings;
  - (b) Have a lawyer appointed at public expense if I cannot afford one;
  - (c) Have a speedy, public jury trial;
  - (d) Appeal any conviction;
  - (e) Remain silent and not testify;
  - (f) Question witnesses who testify against me;
  - (g) Call witnesses to testify for me, at no cost;
  - (h) Be presumed innocent unless the charge(s) against me is (are) proved beyond a reasonable doubt; and
  - (i) Present evidence and a defense.
- RCW 10.05.020(3)(b).
9. **Give Up My Rights.** 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;
  - (d) An opportunity to call and question witnesses; and
  - (e) Present evidence or a defense.
- RCW 10.05.020(3)(b).
10. **Agree To Admissibility And Sufficiency Of Facts.** I agree that the facts as reported in the 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. RCW 10.05.020(3)(d).
11. **Sentence If Found Guilty.** If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law. RCW 10.05.020(3).
12. **Treatment.** 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. RCW 10.05.020(3).

13. **Future Penalties.** 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).
14. **Additional Deferred Prosecution Requirements.**
- A. **All Charges – Mandatory Valid License And Insurance.** 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. RCW 10.05.140(1).
  - B. **Legal Financial Obligations.** I may also be required to pay restitution to victims, pay court costs, and pay probation assessments authorized by law. RCW 10.05.140(1), (2); RCW 10.01.160; RCW 10.64.120(1).
  - C. **Alcohol Dependency – Mandatory Ignition Interlock Restriction.** 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 10.05.140(1); RCW 46.20.720(4).
  - D. **Title 46 Charge – Driving Commercial Vehicle.** 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.  
  
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.
  - E. **Additional Conditions.** 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 and all nonprescribed mind-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. RCW 10.05.140(1), (2).
  - F. **Termination.** The court may terminate the deferred prosecution program if I violate the deferred prosecution order. RCW 10.05.140(1), (2).

15. **Alcoholism Program Requirements.** RCW 10.05.150. A deferred prosecution program for alcoholism shall be for a two-year period and shall include, but not be limited to, the following requirements –
- (1) Total abstinence from alcohol and all other nonprescribed mind-altering drugs;
  - (2) Participation in an intensive inpatient or intensive outpatient program in a state-approved substance use disorder treatment program;
  - (3) Participation in a minimum of two meetings per week of an alcoholism self-help recovery support group, as determined by the assessing agency, for the duration of the treatment program;
  - (4) Participation in an alcoholism self-help recovery support group, as determined by the assessing agency, from the date of court approval of the plan to entry into intensive treatment;
  - (5) Not less than weekly approved outpatient counseling, group or individual, for a minimum of six months following the intensive phase of treatment;
  - (6) Not less than monthly outpatient contact, group or individual, for the remainder of the two-year deferred prosecution period;
  - (7) The decision to include the use of prescribed drugs, including disulfiram, as a condition of treatment shall be reserved to the treating facility and the petitioner's physician;
  - (8) All treatment within the purview of this section shall occur within or be approved by a state-approved substance use disorder treatment program;
  - (9) Signature of the petitioner agreeing to the terms and conditions of the treatment program.
16. **Domestic Violence Program Requirements.** RCW 10.05.155. A deferred prosecution program for domestic violence behavior, or domestic violence co-occurring with substance abuse or mental health, must include, but is not limited to, the following requirements –
- (1) Completion of a risk assessment;
  - (2) Participation in the level of treatment recommended by the program as outlined in the current treatment plan;
  - (3) Compliance with the contract for treatment;
  - (4) Participation in any ancillary or co-occurring treatments that are determined to be necessary for the successful completion of the domestic violence intervention treatment including, but not limited to, mental health or substance use treatment;
  - (5) Domestic violence intervention treatment within the purview of this section to be completed with a state-certified domestic violence intervention treatment program;
  - (6) Signature of the petitioner agreeing to the terms and conditions of the treatment program;
  - (7) Proof of compliance with any active order to surrender weapons issued in this program or related civil protection orders or no-contact orders.

17. **Domestic Violence – Mandatory Prohibit And Surrender Firearms.** If the court defers prosecution for any crime involving domestic violence behavior, I will be ordered not to possess firearms and will be ordered to surrender firearms. RCW 10.05.140(2)(a); RCW 9.41.800.

18. **Failure To Comply.** 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. RCW 10.05.090.

19. **Successful Compliance.** The court will dismiss the charge(s) against me in this case three 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. RCW 10.05.120(1).

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 the I have successfully completed the domestic violence treatment plan, the court shall dismiss the charges pending against me. RCW 10.05.120(3).

I certify (or declare) under penalty of perjury under the laws of the State of Washington that I have read the foregoing, agree with all of its provisions, and that the foregoing is true and correct.

SIGNED at (city) \_\_\_\_\_, (state) \_\_\_\_\_ on (date) \_\_\_\_\_.

/s/ Signed Electronically

\_\_\_\_\_ (defendant)

\_\_\_\_ Signed by counsel for the defendant after  
receiving permission from the defendant.

I have read and discussed this statement with the  
defendant, and believe the defendant is competent  
and fully understands this statement.

/s/ Signed Electronically

DEFENDANT'S LAWYER

\_\_\_\_\_ (name)

\_\_\_\_\_ (WSBA No.)

[Note – By typing your name, you intend to sign electronically and agree your electronic signature is the same as a handwritten signature for the purpose of validity, enforceability, and admissibility.]