

BENTON COUNTY DISTRICT COURT, STATE OF WASHINGTON

STATE OF WASHINGTON

County of Benton

City of _____, Plaintiff,

vs.

Defendant.

DOB: _____

WADL# _____

Petition for Deferred Prosecution

Case No: _____

Charges: _____

Violation Date: _____

I am the defendant in this case, and I petition the court for deferred prosecution under RCW 10.05. This petition has been filed at least seven (7) days prior to my trial date and I filed with the court with at least three court days prior to hearing on this petition.

I make the following statements under oath in support of my petition in order for the court to make specific findings, determine my eligibility, and grant my petition:

I understand that the court will not grant a deferred prosecution petition from a person who sincerely believes that they are in fact innocent of the crime(s) charged and does not in fact suffer from either substance use disorder or mental health disorder.

I sincerely believe I am guilty of the charge/s associated with the above-referenced case number(s). This wrongful conduct charged is the result of, or caused by ☐ substance use disorders; ☐ mental problems and I need treatment. I sincerely believe that I do suffer from the problem(s) diagnosed in my evaluation and unless I receive treatment, the probability of future recurrence/reoffending is great.

I am financially able to pay the cost of diagnosis and treatment, and I agree to do so.

I am filing with this petition a copy of my evaluation from a state-approved behavioral health agency ☐ approved for substance use disorder services; ☐ approved for mental health services.

The approved agency has conducted my evaluation, prepared a written assessment that contains a case history, and has determined my requirements. Upon the court's review of this evaluation I believe the statutory requirements:

☐ ARE SATISFIED; ☐ ARE NOT SATISFIED with respect to the criteria related to "being amenable to treatment." This requirement showing a minimum number of sessions may be waived if the court finds good cause and I am seeking a waiver for good cause for the following reasons: _____

I am filing this petition under the above referenced case number and associated charges as ☐ My first ever petition; ☐ My second petition and I have no prior offenses between this petition and my first and ☐ I am not under court jurisdiction for my first deferred prosecution and I am eligible for the granting of this deferred prosecution.

Furthermore, by my signature at the end of this petition I acknowledge having read and understand each of the following paragraphs below.

Prior to January 1, 2026 a person could only be granted a deferred prosecution once in a lifetime, but after January 1, 2026 a person who petitions the court for the deferred prosecution and participates in the deferred prosecution for his or her first violation of RCW 46.61.502 (DUI) or 46.61.504 (Physical Control) is eligible to petition the court for a second deferred prosecution for the person's next violation of RCW 46.61.502 or 46.61.504 when the person has no other prior convictions defined as a "prior offense" under RCW 46.61.5055.

A person charged with a violation of RCW 46.61.502 (DUI) or 46.61.504 (DUI) who does not participate in a deferred prosecution for his or her first violation of RCW 46.61.502 or 46.61.504 remains eligible to petition the court for a deferred prosecution but is not eligible for a deferred prosecution more than once.

A person may not be on two deferred prosecutions at the same time unless separate offenses are committed within seven days of each other and the person petitions to consolidate each offense into a single deferred prosecution.

If my petition is granted, I acknowledge that I am aware of collateral consequences imposed through the Department of Licensing (DOL) and RCW 46.20.355. As such I have reviewed this statute and I understand that I must apply for a probationary license and abide by other requirements set forth therein.

I understand that if I did not petition for deferred prosecution and choose to proceed to trial and were found guilty, I may be allowed to seek suspension of some or all fines and incarceration that may be ordered upon the condition that I seek treatment. I further

understand that I may seek treatment from public or private agencies at any time, regardless of whether I have been found guilty of the offense charged.

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 per RCW 46.25.090. If I currently drive a commercial motor and hold a license issued by Washington State, I am required to notify the DOL and my employer of this deferred prosecution within 30 days of the judge granting this petition as per RCW 46.25.030.

If the court grants this Petition, I understand that the court will likely order reasonable conditions including but not limited to those set forth below and if I violate these the court may revoke the order granting my deferred prosecution.

- I may not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance.
- I will be required to install an ignition interlock device if this deferred prosecution is based upon substance use disorder or co-occurring substance use disorder with mental health disorder for at least 1 year and furthermore the DOL may require different periods of interlock use as provided for in RCW 46.20.720.
- I may be required to pay restitution to victims, pay court costs, and pay probation costs authorized by law.
- Attend self-help recovery support groups for substance use disorder
- Complete abstinence from alcohol and all nonprescribed mind-altering drugs, with periodic urinalysis or breath analysis.
- Not to have been found on probable cause to have committed a new criminal offense.

If the court grants this petition, I may be required to request permission to travel or transfer to another state during the deferred prosecution and I understand that I will also be required to pay an application fee with my travel or transfer request.

I understand that if there is an abstinence violation I shall be ordered to be reassessed and shall follow the recommended treatment as found in the order granting my deferred.

In the event of other failures or neglect to carry out and fulfill any term or condition of my treatment plan or condition regarding installation of an ignition interlock device, the treatment agency or ignition interlock agency shall immediately report the breach to the court via the probation department, to the prosecutor, and to me (if unrepresented) and to my attorney of record, along with its recommendation.

I understand that there is a statutory process that shall be followed upon receiving a non-compliance report described in the above paragraph and I understand that the court has discretion in its findings. The court must hold a hearing to determine whether I should be removed from the deferred prosecution. At hearing, evidence shall be taken of my alleged failure to comply and I do have the right to present evidence. At the

conclusion of the hearing the court shall either order that I continue or be removed from deferred prosecution.

If I am convicted of a similar offense that was committed while I am in the deferred prosecution, I understand the court has no discretion as described above and shall revoke the deferred prosecution and enter judgment.

I understand my rights filed herewith "Statement Of Defendant's Rights." As a condition of receiving treatment and prior to entering into and deferring prosecution on this/these charge(s) I am knowingly and voluntarily giving up all of my rights described therein.

I agree and understand that in acknowledging and giving up my rights, all stipulations I made will be used to support a finding of guilt if this deferred prosecution is revoked.

If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law.

I understand that a deferred prosecution will be considered a prior offense under RCW 46.61.5055(14) and therefore this deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a 7-year period.

If the crime I am petitioning the court for under this cause number has a violation date on or after July 23, 2023, and I have a prior offense as defined in RCW 46.61.5055(14), and that prior offense was committed within seven years of this case, I may not possess, own, or have under my control any firearm, ammunition, nor hold a concealed pistol license until my right to do so is restored. There will be a separate order issued on this if my petition is granted.

Finally, I understand that the court will dismiss the charge(s) against me filed under this petition and cause number(s) no less than three (3) years after receiving proof of successful completion of the approved treatment plan, and following proof to the court that the I have complied with the conditions imposed by the court following successful completion of the approved treatment plan, but not before five (5) years following entry of the order granting my deferred prosecution.

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 and without threats or promises.

Signed this ____ day of _____, 20____.

Presented by:

X _____
Petitioner-Defendant

Attorney for Defendant, WSBA# _____