

IN THE MUNICIPAL COURT FOR
 LAKEWOOD / UNIVERSITY PLACE / STEILACOOM / DUPONT
 PIERCE COUNTY, STATE OF WASHINGTON

<input type="checkbox"/> Lakewood <input type="checkbox"/> University Place <input type="checkbox"/> Steilacoom <input type="checkbox"/> DuPont	Case No: _____
Plaintiff, vs. _____ Defendant	ORDER GRANTING DEFERRED PROSECUTION (DUI)

THIS MATTER having come on for hearing before the undersigned Judge upon the Defendant's Petition for Deferred Prosecution; the Plaintiff, appearing by and through the Prosecuting Attorney, and the Defendant appearing in person and through _____ his/her attorney of record, the Court having examined and incorporated into the record Defendant's Petition and Statements in support of Deferred Prosecution, the evaluation and treatment report, the Defendant's case history and abstract of driving record, and the files and records herein, having heard argument of counsel, and, otherwise, being fully informed in the premises, now, therefore makes the following:

I. FINDINGS OF FACT

- 1.1 That the offense(s) for which Defendant stands charged in this case occurred as a direct result of substance use disorders, or mental problems;
- 1.2 That Defendant is in need of treatment and if not treated for this condition, there is a high probability the Defendant will commit similar violations in the future;
- 1.3 That Defendant is amenable to treatment;
- 1.4 That extensive and long-term treatment is available to Defendant through _____, a state-approved treatment provider as designated under the law;
- 1.5 That Defendant agrees to complete the two-year program offered by the treatment provider as set forth in the attached case history and written assessment, pursuant to RCW 10.05.150 or RCW 10.05.040-.050, as applicable;
- 1.6 That Defendant has agreed to be liable for all costs and expenses associated with diagnosis and treatment;
- 1.7 That Defendant has acknowledged and waived his or her rights in a criminal case: the right to a speedy trial, the right to a jury trial, the right to testify, the right to call witnesses to testify, and the right to present evidence in his or her defense;
- 1.8 That Defendant's statements made pursuant to RCW 10.05.020(2) in support of the Petition for Deferred Prosecution were made knowingly and voluntarily;

1.9 That Defendant has stipulated to the admissibility and sufficiency of the facts contained in the written police report(s) attached and incorporated herein by this reference and filed herewith;

1.10 That Defendant has acknowledged that the stipulated facts will be admissible and sufficient in any criminal hearing or trial on the underlying offense(s) held subsequent to revocation of this Order Granting Deferred Prosecution and that the facts contained in the report(s) will be used as the sole evidence to support a finding of guilt; and

1.11 That Defendant has not been previously granted a Deferred Prosecution for a Title 46 RCW violation.

From the foregoing FINDINGS OF FACT, the Court draws the following:

II. CONCLUSIONS OF LAW

2.1 That the above entitled Court has jurisdiction over the subject matter and the parties to this action;

2.2 That the Defendant's Petition for Deferred Prosecution meets the requirements of RCW 10.05 et seq;

2.3 That the diagnostic evaluation and commitment to provide treatment submitted by the treatment provider meets the requirements of RCW 10.05.040 - .050 or RCW 10.05.150, as applicable; and

2.4 That the Defendant is eligible for Deferred Prosecution.

III. ORDER

Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, it is hereby:

ORDERED that prosecution is deferred for five years pursuant to RCW Ch. 10.05 et seq., upon the following terms and conditions:

3.1 Defendant shall complete the two-year treatment program recommended by _____, according to the terms and conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached to the Petition and incorporated herein by this reference;

3.2 Defendant shall maintain total abstinence from alcohol and any controlled substances as defined in RCW Ch. 69.50 et. seq., unless prescribed by a physician during the period of deferral;

3.3 Defendant shall commit no criminal offenses during the period of deferral;

3.4 Defendant shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance sufficient to comply with state laws on financial responsibility (RCW 46.29.490);

3.5 The docket for this case shall be removed from the regular court docket files for traffic/criminal cases and shall be placed in the Court's special deferred prosecution file;

3.6 An abstract of the Defendant's acceptance for deferred prosecution shall be sent to the Department of Licensing if the charge for which the Deferred Prosecution is granted is a misdemeanor or gross misdemeanor under Title 46 RCW;

3.7 Defendant shall be on supervised probation with the Municipal Court Probation Department during the period of deferral and shall abide by all terms, conditions, rules, and regulations of the probation department for Defendant's conduct during this period. Defendant shall pay the costs of probation in the amount of **\$1250**;

3.8 The treatment provider shall file monthly status reports with the Court and probation department up to completion of the required two-year treatment program describing Defendant's cooperation and progress in treatment. The Court or probation department may require an increase in the frequency of these reports at its discretion;

3.9 The treatment provider and probation department are authorized to monitor the Defendant's sobriety by the use of random urinalysis or breath testing. Defendant shall submit to random urinalysis or breath testing upon the request of the probation department, treatment provider, or the Court.

3.10 In the event that the Defendant fails or neglects to carry out and fulfill any term or condition of the treatment plan, or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720, the facility, center, institution or agency administering the treatment or device, shall immediately in writing report such breach to the Court, the probation department, the prosecutor, and the Defendant's attorney of record, together with its recommendation. The Court, upon receiving such a report of failure, neglect or violation, will hold a hearing to determine whether the Defendant should be removed from the deferred prosecution program;

3.11 In the event the Court finds cause to revoke the deferred prosecution; the stipulated police report(s) shall be admitted into evidence. The Court will then enter judgment based solely on said report(s) and, if appropriate, sentence the Defendant according to law;

3.12 Defendant's waiver of the right to a speedy trial pursuant to CRRLJ 3.3 and RCW 10.05.110 is accepted;

3.13 Defendant's waiver of the right to a jury trial pursuant to CRRLJ 6.1.1 and RCW 10.05.020(2) is accepted;

3.14 Defendant shall pay a BAC State Toxicology Lab assessment in the amount of **\$200** (RCW 46.61.5054);

3.15 Defendant shall not relocate from the State of Washington without Court approval. Defendant shall keep the probation department and the clerk of the Court advised, in writing, of any changes in address and telephone number within two business days. Defendant's current address and phone number:

_____ Phone: () _____

3.16 Defendant shall not change the treatment provider without prior approval of the Court and probation department;

3.17 Three years after receiving written proof of successful completion of the two-year treatment program, but not before five years following entry of the Order of Deferred Prosecution, and if the Defendant is in full compliance with all other conditions of this order, the Court shall dismiss the charge(s) pending against the Defendant;

IV. ADDITIONAL TERMS AND CONDITIONS:

4.1 Defendant shall pay restitution to _____ in the amount of \$ _____, no later than _____;

4.2 Defendant shall pay \$ _____, for the costs of an emergency response (up to \$1,000) (RCW 38.52.430);

4.3 Defendant shall pay witness fees and expenses due for subpoenaed witnesses who have appeared for hearing or trial (RCW 10.05.01 0);

4.4 Defendant shall pay court costs of **\$250**, for administration of the Deferred Prosecution Program;

4.5 Defendant shall attend and complete a DUI Victim's Panel within 60 days and file written proof of completion with the probation department and the Court. (RCW 46.61.5152);

4.6 Defendant may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device for _____ months/_____ years from the date this order is signed by the Judge (RCW 46.20.720) or otherwise specified by the Washington State Department of Licensing. It is further ordered that:

- a. The Defendant shall not operate any motor vehicle unless he/she has a valid license and insurance;
- b. The Defendant shall have an ignition interlock breath alcohol device installed by a Washington State Patrol certified ignition interlock breath alcohol device vendor on **ANY** motor vehicle(s) he/she operates;
- c. Defendant shall bear the cost of installation and maintenance of the ignition interlock breath alcohol device;
- d. Any ignition interlock breath alcohol device installed pursuant to this order shall be monitored by the installer at least once every sixty (60) days (WAC 204-50-080). Notification shall be made by the installer in writing to all named parties, pursuant to paragraph 3.10 above; or as required by WAC 204-50 etc seq;
- e. Defendant shall not adjust, tamper with, remove, or circumvent in any manner: (1) any ignition interlock breath alcohol device, (2) the wiring of any ignition interlock breath alcohol device, or (3) the ignition system of any vehicle equipped with an ignition interlock breath alcohol device; and
- f. Any ignition interlock breath alcohol device installed pursuant to this Order Granting Deferred Prosecution shall have the following minimum setting: Fail level of .025; Warn level of .02; Hum is required; Retests are required; 3 maximum violations; 72 hour grace period.

4.7 During the three years following completion of the two-year treatment program, Defendant shall attend a minimum of _____ AA/NA or other self-help support group meetings per [] week [] month. Proof of such attendance must be filed with the Court by the 5th of each month.

4.8 Defendant shall not refuse to submit to a test of his or her breath or blood to determine alcohol concentration or the presence of controlled substances upon request of a law enforcement officer.

4.9 Other terms and conditions:

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

JUDGE/PRO TEM

Presented by:

Attorney for Defendant
WSBA #

Approved for Entry; Copy Received:

Prosecuting Attorney
WSBA#

I do hereby acknowledge the foregoing Order of Deferred Prosecution. I have read it, understand and agree to comply with the terms and conditions set forth therein-

Defendant

Date