

GRANT COUNTY DISTRICT COURT

DEFERRED PROSECUTION ***PROCEDURAL INSTRUCTIONS***

Defendant and/or attorney seeking an Order Deferring Prosecution **shall** comply as follows:

** All of the required forms are in the Deferred Prosecution packet provided by Grant County District Court**

1. Review and sign the “Petition for Deferred Prosecution” (“Petition”). You must attach a valid case history and assessment from a state-certified treatment agency per RCW 10.05.020.
2. Submit the original Petition, with attachments, to the Grant County District Court Probation Office (“Probation”). You must also submit to Probation a “Deferred Prosecution Appointment Form.” Probation will thereafter contact the Defendant (and attorney if requested) to schedule an appointment at which Probation shall review and discuss with the Defendant the following: the Petition and attachments, the requirements under the Deferred Prosecution, and the rules of probation. The Defendant shall meet with Probation no less than five (5) business days before entry of the Deferred Prosecution.
3. Obtain Probation’s signature on the “Deferred Prosecution Checklist” (“Checklist”). Probation will submit the original Petition, with attachments, and Checklist to the Court.
4. Prepare the Grant County District Court-approved “Order Deferring Prosecution” and present to the Court for entry.

**District Court of Washington
County of Grant**

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> <div style="text-align: right; margin-bottom: 5px;">Plaintiff,</div> vs. <div style="text-align: right; margin-top: 10px;">Defendant.</div>	No: Petition for Deferred Prosecution (DPPF) Charges: _____ Violation Date: _____
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I am the defendant in this case, and I petition the court 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. RCW 10.05.010, .160.

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 own behalf; (d) an opportunity to call 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 penalty 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. 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 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). 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 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. 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 non-prescribed mind-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, or domestic violence 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 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; (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 drugs or alcohol; 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 5 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 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 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.

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

Petitioner-Defendant

Defense Attorney/WSBA No.

GRANT COUNTY DISTRICT COURT

PROBATION DEPARTMENT

DEFERRED PROSECUTION APPOINTMENT FORM

DEFENDANT'S NAME _____ CASE NUMBER _____

NEXT COURT DATE _____ COURT ROOM _____

DEFENDANT'S PHONE NUMBER _____

ATTORNEY NAME _____ ATTORNEY'S NUMBER _____

Attorney requests to be present during probation meeting _____ YES _____ NO _____

Other: _____

Probation will contact the Defendant to go over the details of the deferred prosecution, review that all requirements are met per RCW 10.05, and discuss with the defendant the expectations and requirements of the Grant County District Court Probation Department while the Defendant is monitored during this period of Deferred Prosecution.

**GRANT COUNTY DISTRICT COURT PROBATION
DEFERRED PROSECUTION CHECKLIST**

DEFENDANTS NAME

CASE NO.

COURT ROOM

ENTRY OF DP COURT DATE

Pursuant to the Defendant's application for Deferred Prosecution, the Defendant was evaluated by an approved treatment provider. The evaluation report that was filed with the petition has been reviewed by Probation. The defendant has agreed to pay a monthly probation supervision fee of no less than \$_____ per month unless deemed indigent by the court. The defendant has also agreed to all the terms and conditions of supervision. Further, Probation has met with the Defendant and/or counsel, and, finds:

_____ Department of Licensing and NCIC III records show no prior Deferred Prosecution.

_____ An approved provider has committed to provide treatment for the Defendant in this Deferred Prosecution. The defendant and the treatment facility have been informed and are aware that monthly compliance reports are required. Pursuant to RCW 10.05.170, a semi-annual records check will be made with the Department of Licensing.

_____ A release of information for the treatment provider has been signed by the Defendant.

_____ Defendant understands that he/she will be supervised by the probation department during the entire length of the Deferred Prosecution period.

_____ Defendant understands that he/she shall successfully complete the drug and alcohol treatment program which will be a minimum of 2 years in length followed by 3 years of court supervision once treatment is completed and before the court will consider dismissal.

_____ Defendant understands he/she shall attend 2 self-help groups a week until all treatment requirements are completed.

_____ Defendant understands he/she shall attend a DUI Victims Panel.

_____ Defendant understands he/she shall not consume alcohol or use non-prescription drugs including marijuana for the entire 5 year deferred prosecution period.

The defendant shall provide the Order Deferring Prosecution for entry with the court on the proper form approved by Grant County District Court.

If applicable, a probation report will be attached prior to entry of the Order Deferring Prosecution.

DATED this _____ day of _____, 20_____.

DEFENDANT'S SIGNATURE

PROBATION OFFICER

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 \$ _____

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

Breath Test Program Fee \$ _____
BAC Breath Test Levels: ____:____;____: _____

Blood Draw Fee \$ ____ (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. If not currently in treatment, the defendant shall enroll in treatment within _____ days.

6. The defendant is ordered to keep the Court Clerk and District Court Probation Department advised, in writing, of all changes of address;
7. The defendant shall not consume any alcohol, non-prescribed drugs, including marijuana during the period of the deferral;
8. The defendant shall not commit any alcohol and/or drug related offenses during the period of the deferral.
9. 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;
10. 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;
11. The defendant shall immediately report any violation of this order to the Probation Department;
12. The defendant shall successfully complete the Victims Panel Program (Alcohol-Driving Offenses) within 60 days;
13. 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).
14. The defendant shall have no criminal law violations.
15. The defendant shall report to District Court Probation a) immediately; b) within 24 hours; c) within 48 hours.
16. The defendant shall comply with the additional provisions as follows:

DONE IN OPEN COURT this _____ day of _____, 20____.

 JUDGE