

**Municipal Court of Pasco
State of Washington**

City of Pasco,

vs.

Plaintiff

(Last, First Middle Name DOB) Defendant

No.

Petition for Deferred Prosecution

- No BAC BAC Refused THC
 BAC results _____
 Passenger under age 16
 MENTAL HEALTH

I am the defendant in this case and I petition the court for deferred prosecution under RCW Chapter 10.05 for the following crimes: _____

I make the following statement in support of my petition:

1. Wrongful Conduct. The wrongful conduct charged is the result of or cause by substance use disorder mental problems, for which I need treatment.
2. Probability of Future Recurrence. Unless I receive treatment, the probability is great that I will offend again.
3. Cost of Program. I agree to pay the costs of diagnosis and treatment if I am financially able to do so.
4. Not Innocent and Need Treatment. I understand the court will not accept a petition for deferred prosecution from a person who (i) sincerely believes that he or she is innocent of the charges, or (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction or mental problems.
5. No Previous Title 46 RCW Deferred Prosecution. If this charge is a violation of Title 46 RCW or similar municipal code, I have not previously been placed on a deferred prosecution for a Title 46 RCW or similar municipal code violation.
6. Case History and Assessment. I have filed with this petition a case history, and written assessment prepared by an Washington State DSHS approved substance use disorder treatment program provider if the petition alleges a substance use disorder or by an Washington State DSHS approved mental health center if the petition alleges a mental problem.

7. A. My Rights. I acknowledge I have the following rights to:

- (a) Have a lawyer represent me at all stages of this case;
- (b) Have a lawyer appointed at public expense if I cannot afford a lawyer;
- (c) 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 charges against me are proved beyond a reasonable doubt;
- (i) Present evidence and a defense.

B. Waiver of My Rights. By deferring prosecution on my charges, I acknowledge and waive my right to:

- (a) A speedy trial;
- (b) A jury trial;
- (c) Testify on my own behalf;
- (d) An opportunity to call witnesses to testify for me;
- (e) An opportunity to question witnesses; and
- (f) Present any evidence or defense.

8. Agree and Stipulate to Facts contained in the Police Reports. I agree and stipulate the facts as reported in the written police reports are admissible and the facts are sufficient to support a conviction on the charges. I acknowledge that my statement will be entered and used to support a finding of guilt if the court finds cause to revoke the order granting deferred prosecution.

9. 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.

10. Treatment Rights if No Deferred Prosecution. If I proceed to trial and am 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 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.

11. Deferred Prosecution May Enhance Mandatory Penalties for a Subsequent Offense. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a seven 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 1st degree, reckless driving, reckless endangerment - if any of these three were originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide or assault under the influence).

12. A. 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 and if I drive a commercial motor vehicle holding a license issued by Washington State, I will be required to notify the Washington Department of Licensing and my employer of this deferred prosecution within 30 days of the judge granting this petition. RCW 46.25.030.

B. Valid Operator's License and Insurance. If the court defers prosecution, 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.

C. Ignition Interlock if Alcohol Dependency. 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 period of interlock use shall be not less than the period provided for in RCW 46.20.720, and subject to certification from the ignition interlock device provider. RCW 46.20.720(4).

D. Financial Obligations. I may also be required to pay restitution to victims, pay court costs (\$540 Deferred Prosecution assessment) and \$500 probation costs, a BAC assessment of \$250 and an emergency response cost of \$300 if this is substance abuse related. I will be required to make regular monthly payments of at least \$50 per month, unless payments are set at a lower amount by the court, until costs are paid in full.

E. Additional Court Ordered Conditions. To help ensure continued sobriety, and to 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, attendance at a DUI Victim Impact Panel, complete abstinence from alcohol and all non-prescribed mind/mood altering drugs, periodic urinalysis or breath analysis, domestic violence perpetrator's treatment, anger management, and maintaining law-abiding behavior. Substance use disorder treatment programs shall require a minimum of two self-help recovery groups per week for the duration of the treatment program.

The court may terminate the deferred prosecution program if I violate any of these conditions.

13. Travel Outside the State of Washington. If the court grants this petition, during the period of deferred prosecution I will be required to contact my probation officer, or her designee, to request permission to travel or transfer to another state if my wrongful conduct involves (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; or (iv) 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.
14. Removal from Deferred Prosecution Program. 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 the 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.

15. Dismissal of Charges Following Successful Compliance. The court will dismiss the charges against me in this case three years from the end of the two-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 two-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.
16. RCW 10.05.020 Statement. I acknowledge that my signature on this petition is sufficient for RCW 10.05.020 (3) requiring that I execute a statement acknowledging certain rights, waivers, stipulations and an agreement that the statement will be used to support a finding of guilty if the court finds cause to revoke the order granting 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.

Dated at _____, Washington this ____ day of _____, 2018.

Petitioner/Defendant

I have reviewed and discussed this petition with the defendant. I believe that the defendant is competent and fully understands the petition.

Attorney for Defendant, WSBA No. _____