

---

SENATE BILL 5396

---

State of Washington                      58th Legislature                      2003 Regular Session

By Senators McCaslin, Deccio, Thibaudeau, Eide and Brandland

Read first time 01/23/2003. Referred to Committee on Judiciary.

1            AN ACT Relating to court-imposed conditions of deferred  
2 prosecutions; and amending RCW 10.05.120 and 10.05.140.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 10.05.120 and 2002 c 219 s 14 are each amended to read  
5 as follows:

6            (1) Three years after receiving proof of successful completion of  
7 the two-year treatment program, and following proof to the court that  
8 the petitioner has complied with the conditions imposed by the court  
9 following successful completion of the two-year treatment program, but  
10 not before five years following entry of the order of deferred  
11 prosecution pursuant to a petition brought under RCW 10.05.020(1), the  
12 court shall dismiss the charges pending against the petitioner.

13            (2) When a deferred prosecution is ordered pursuant to a petition  
14 brought under RCW 10.05.020(2) and the court has received proof that  
15 the petitioner has successfully completed the child welfare service  
16 plan, or the plan has been terminated because the alleged victim has  
17 reached his or her majority and there are no other minor children in  
18 the home, the court shall dismiss the charges pending against the  
19 petitioner: PROVIDED, That in any case where the petitioner's parental

1 rights have been terminated with regard to the alleged victim due to  
2 abuse or neglect that occurred during the pendency of the deferred  
3 prosecution, the termination shall be per se evidence that the  
4 petitioner did not successfully complete the child welfare service  
5 plan.

6 **Sec. 2.** RCW 10.05.140 and 1999 c 331 s 4 are each amended to read  
7 as follows:

8 As a condition of granting a deferred prosecution petition, the  
9 court shall order that the petitioner shall not operate a motor vehicle  
10 upon the public highways without a valid operator's license and proof  
11 of liability insurance. The amount of liability insurance shall be  
12 established by the court at not less than that established by RCW  
13 46.29.490. As a condition of granting a deferred prosecution petition,  
14 the court shall also order the installation of an interlock or other  
15 device under RCW 46.20.720 for a petitioner who has previously been  
16 convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent  
17 local ordinance or a petitioner who has been charged with such an  
18 offense and had an alcohol concentration of at least .15, or by reason  
19 of the person's refusal to take a test offered pursuant to RCW  
20 46.20.308 there is no test result indicating the person's alcohol  
21 concentration. For any other petitioner, the court may order the  
22 installation of an interlock device under RCW 46.20.720(1) as a  
23 condition of granting a deferred prosecution petition. As a condition  
24 of granting a deferred prosecution petition, the court may order the  
25 petitioner to make restitution and to pay costs as defined in RCW  
26 10.01.160. To help ensure continued sobriety and reduce the likelihood  
27 of reoffense, the court may order reasonable conditions during the  
28 period of the deferred prosecution including, but not limited to,  
29 attendance at self-help recovery support groups for alcoholism or  
30 drugs, complete abstinence from alcohol and all nonprescribed mind-  
31 altering drugs, and periodic urinalysis or breath analysis. The court  
32 may terminate the deferred prosecution program upon violation of (~~this~~  
33 ~~section~~) the deferred prosecution order.

--- END ---