
HOUSE BILL 1817

State of Washington

67th Legislature

2022 Regular Session

By Representative Goodman

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1 AN ACT Relating to eligibility and requirements for deferred
2 prosecutions; amending RCW 10.05.010, 10.05.015, 10.05.020,
3 10.05.020, 10.05.030, 10.05.030, 10.05.040, 10.05.050, 10.05.060,
4 10.05.090, 10.05.100, 10.05.120, 10.05.140, 10.05.150, 10.05.155, and
5 10.05.170; providing an effective date; and providing an expiration
6 date.

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

8 **Sec. 1.** RCW 10.05.010 and 2019 c 263 s 701 are each amended to
9 read as follows:

10 (1) In a court of limited jurisdiction a person charged with a
11 misdemeanor or gross misdemeanor may petition the court to be
12 considered for a deferred prosecution (~~(program)~~). The petition shall
13 be filed with the court at least seven days before the date set for
14 trial but, upon a written motion and affidavit establishing good
15 cause for the delay and failure to comply with this section, the
16 court may waive this requirement subject to the defendant's
17 reimbursement to the court of the witness fees and expenses due for
18 subpoenaed witnesses who have appeared on the date set for trial. A
19 person charged with a misdemeanor or gross misdemeanor shall not be
20 eligible for a deferred prosecution unless the court makes specific
21 findings pursuant to RCW 10.05.020.

1 (2) A person charged with a (~~traffic infraction, misdemeanor, or~~
2 ~~gross misdemeanor under Title 46 RCW, or a misdemeanor or gross~~
3 ~~misdemeanor domestic violence offense,)) violation of RCW 46.61.502
4 or 46.61.504 shall not be eligible for a deferred prosecution
5 (~~program~~) unless the court makes specific findings pursuant to RCW
6 10.05.020. A person (~~may not participate in a deferred prosecution~~
7 ~~program for a traffic infraction, misdemeanor, or gross misdemeanor~~
8 ~~under Title 46 RCW if he or she has participated in a deferred~~
9 ~~prosecution program for a prior traffic infraction, misdemeanor, or~~
10 ~~gross misdemeanor under Title 46 RCW, and a person may not~~
11 ~~participate in a deferred prosecution program for a misdemeanor or~~
12 ~~gross misdemeanor domestic violence offense if he or she has~~
13 ~~participated in a deferred prosecution program for a prior domestic~~
14 ~~violence offense)) who petitions the court for the deferred
15 prosecution and participates in the deferred prosecution under this
16 chapter for his or her first violation of RCW 46.61.502 or 46.61.504
17 is eligible to petition the court for a second deferred prosecution
18 for a violation of RCW 46.61.502 or 46.61.504 if the person remains
19 eligible, specific findings are made pursuant to RCW 10.05.020, and
20 the person has no prior out-of-state convictions defined as a "prior
21 offense" under RCW 46.61.5055. Separate offenses committed more than
22 seven days apart may not be consolidated in a single program.~~~~

23 (3) A person charged with a misdemeanor or a gross misdemeanor
24 under chapter 9A.42 RCW shall not be eligible for a deferred
25 prosecution (~~program~~) unless the court makes specific findings
26 pursuant to RCW 10.05.020. Such person shall not be eligible for a
27 deferred prosecution (~~program~~) more than once.

28 (4) A person is not eligible for a deferred prosecution
29 (~~program~~) if the misdemeanor or gross misdemeanor domestic violence
30 offense was originally charged as a felony offense in superior court.

31 (5) A person may petition a court for a second deferred
32 prosecution while still under the jurisdiction of a court for the
33 person's first deferred prosecution; however, the first deferred
34 prosecution shall be revoked prior to the entry of the second
35 deferred prosecution.

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

1 (7) A person charged with a misdemeanor or gross misdemeanor for
2 a violation of RCW 46.61.502 or 46.61.504 who does not participate in
3 a deferred prosecution for his or her first violation of RCW
4 46.61.502 or 46.61.504 remains eligible to petition the court for a
5 deferred prosecution pursuant to the terms of this section and
6 specific findings made under RCW 10.05.020. Such person shall not be
7 eligible for a deferred prosecution more than once.

8 **Sec. 2.** RCW 10.05.015 and 2019 c 263 s 702 are each amended to
9 read as follows:

10 At the time of arraignment a person charged with a violation of
11 RCW 46.61.502 or 46.61.504 or a misdemeanor or gross misdemeanor
12 domestic violence offense may be given a statement by the court that
13 explains the availability, operation, and effects of the deferred
14 prosecution (~~program~~).

15 **Sec. 3.** RCW 10.05.020 and 2019 c 263 s 703 are each amended to
16 read as follows:

17 (1) Except as provided in subsection (2) of this section, the
18 petitioner shall allege under oath in the petition that the wrongful
19 conduct charged is the result of or caused by substance use disorders
20 or mental (~~problems~~) health disorders or domestic violence behavior
21 problems for which the person is in need of treatment and unless
22 treated the probability of future recurrence is great, along with a
23 statement that the person agrees to pay the cost of a diagnosis and
24 treatment of the alleged problem or problems if financially able to
25 do so. The petition shall also contain a case history and written
26 assessment prepared by an approved (~~substance use disorder treatment~~
27 ~~program~~) behavioral health agency, approved for mental health
28 services and substance use disorder services, as designated in
29 chapter 71.24 RCW (~~if the petition alleges a substance use disorder,~~
30 ~~by an approved mental health center if the petition alleges a mental~~
31 ~~problem,~~) or by a Washington state-certified domestic violence
32 treatment provider pursuant to chapter 26.50 RCW (~~if the petition~~
33 ~~alleges a domestic violence behavior problem~~).

34 (2) In the case of a petitioner charged with a misdemeanor or
35 gross misdemeanor under chapter 9A.42 RCW, the petitioner shall
36 allege under oath in the petition that the petitioner is the natural
37 or adoptive parent of the alleged victim; that the wrongful conduct
38 charged is the result of parenting problems for which the petitioner

1 is in need of services; that the petitioner is in need of child
2 welfare services under chapter 74.13 RCW to improve his or her
3 parenting skills in order to better provide his or her child or
4 children with the basic necessities of life; that the petitioner
5 wants to correct his or her conduct to reduce the likelihood of harm
6 to his or her minor children; that in the absence of child welfare
7 services the petitioner may be unable to reduce the likelihood of
8 harm to his or her minor children; and that the petitioner has
9 cooperated with the department of ((social-and)) health ((services))
10 to develop a plan to receive appropriate child welfare services;
11 along with a statement that the person agrees to pay the cost of the
12 services if he or she is financially able to do so. The petition
13 shall also contain a case history and a written service plan from the
14 department of ((social-and)) health ((services)).

15 (3) Before entry of an order deferring prosecution, a petitioner
16 shall be advised of his or her rights as an accused and execute, as a
17 condition of receiving treatment, a statement that contains: (a) An
18 acknowledgment of his or her rights; (b) an acknowledgment and waiver
19 of the right to testify, the right to a speedy trial, the right to
20 call witnesses to testify, the right to present evidence in his or
21 her defense, and the right to a jury trial; (c) a stipulation to the
22 admissibility and sufficiency of the facts contained in the written
23 police report; and (d) an acknowledgment that the statement will be
24 entered and used to support a finding of guilty if the court finds
25 cause to revoke the order granting deferred prosecution. The
26 petitioner shall also be advised that he or she may, if he or she
27 proceeds to trial and is found guilty, be allowed to seek suspension
28 of some or all of the fines and incarceration that may be ordered
29 upon the condition that he or she seek treatment and, further, that
30 he or she may seek treatment from public and private agencies at any
31 time without regard to whether or not he or she is found guilty of
32 the offense charged. He or she shall also be advised that the court
33 will not accept a petition for deferred prosecution from a person
34 who: (i) Sincerely believes that he or she is innocent of the
35 charges; (ii) sincerely believes that he or she does not, in fact,
36 suffer from ((alcoholism, drug addiction, mental problems)) a
37 substance use disorder, a mental health disorder, or domestic
38 violence behavior problems; or (iii) in the case of a petitioner
39 charged under chapter 9A.42 RCW, sincerely believes that he or she
40 does not need child welfare services.

1 (4) Before entering an order deferring prosecution, the court
2 shall make specific findings that: (a) The petitioner has stipulated
3 to the admissibility and sufficiency of the facts as contained in the
4 written police report; (b) the petitioner has acknowledged the
5 admissibility of the stipulated facts in any criminal hearing on the
6 underlying offense or offenses held subsequent to revocation of the
7 order granting deferred prosecution; (c) the petitioner has
8 acknowledged and waived the right to testify, the right to a speedy
9 trial, the right to call witnesses to testify, the right to present
10 evidence in his or her defense, and the right to a jury trial; and
11 (d) the petitioner's statements were made knowingly and voluntarily.
12 Such findings shall be included in the order granting deferred
13 prosecution.

14 **Sec. 4.** RCW 10.05.020 and 2021 c 215 s 115 are each amended to
15 read as follows:

16 (1) Except as provided in subsection (2) of this section, the
17 petitioner shall allege under oath in the petition that the wrongful
18 conduct charged is the result of or caused by substance use disorders
19 or mental ~~((problems))~~ health disorders or domestic violence behavior
20 problems for which the person is in need of treatment and unless
21 treated the probability of future recurrence is great, along with a
22 statement that the person agrees to pay the cost of a diagnosis and
23 treatment of the alleged problem or problems if financially able to
24 do so. The petition shall also contain a case history and written
25 assessment prepared by an approved ~~((substance use disorder treatment
26 program))~~ behavioral health agency, approved for mental health
27 services and substance use disorder services, as designated in
28 chapter 71.24 RCW ~~((if the petition alleges a substance use disorder,
29 by an approved mental health center if the petition alleges a mental
30 problem,))~~ or by a Washington state-certified domestic violence
31 treatment provider pursuant to RCW 43.20A.735 ~~((if the petition
32 alleges a domestic violence behavior problem)).~~

33 (2) In the case of a petitioner charged with a misdemeanor or
34 gross misdemeanor under chapter 9A.42 RCW, the petitioner shall
35 allege under oath in the petition that the petitioner is the natural
36 or adoptive parent of the alleged victim; that the wrongful conduct
37 charged is the result of parenting problems for which the petitioner
38 is in need of services; that the petitioner is in need of child
39 welfare services under chapter 74.13 RCW to improve his or her

1 parenting skills in order to better provide his or her child or
2 children with the basic necessities of life; that the petitioner
3 wants to correct his or her conduct to reduce the likelihood of harm
4 to his or her minor children; that in the absence of child welfare
5 services the petitioner may be unable to reduce the likelihood of
6 harm to his or her minor children; and that the petitioner has
7 cooperated with the department of (~~social-and~~) health (~~services~~)
8 to develop a plan to receive appropriate child welfare services;
9 along with a statement that the person agrees to pay the cost of the
10 services if he or she is financially able to do so. The petition
11 shall also contain a case history and a written service plan from the
12 department of (~~social-and~~) health (~~services~~).

13 (3) Before entry of an order deferring prosecution, a petitioner
14 shall be advised of his or her rights as an accused and execute, as a
15 condition of receiving treatment, a statement that contains: (a) An
16 acknowledgment of his or her rights; (b) an acknowledgment and waiver
17 of the right to testify, the right to a speedy trial, the right to
18 call witnesses to testify, the right to present evidence in his or
19 her defense, and the right to a jury trial; (c) a stipulation to the
20 admissibility and sufficiency of the facts contained in the written
21 police report; and (d) an acknowledgment that the statement will be
22 entered and used to support a finding of guilty if the court finds
23 cause to revoke the order granting deferred prosecution. The
24 petitioner shall also be advised that he or she may, if he or she
25 proceeds to trial and is found guilty, be allowed to seek suspension
26 of some or all of the fines and incarceration that may be ordered
27 upon the condition that he or she seek treatment and, further, that
28 he or she may seek treatment from public and private agencies at any
29 time without regard to whether or not he or she is found guilty of
30 the offense charged. He or she shall also be advised that the court
31 will not accept a petition for deferred prosecution from a person
32 who: (i) Sincerely believes that he or she is innocent of the
33 charges; (ii) sincerely believes that he or she does not, in fact,
34 suffer from (~~alcoholism, drug addiction, mental problems~~) a
35 substance use disorder, a mental health disorder, or domestic
36 violence behavior problems; or (iii) in the case of a petitioner
37 charged under chapter 9A.42 RCW, sincerely believes that he or she
38 does not need child welfare services.

39 (4) Before entering an order deferring prosecution, the court
40 shall make specific findings that: (a) The petitioner has stipulated

1 to the admissibility and sufficiency of the facts as contained in the
2 written police report; (b) the petitioner has acknowledged the
3 admissibility of the stipulated facts in any criminal hearing on the
4 underlying offense or offenses held subsequent to revocation of the
5 order granting deferred prosecution; (c) the petitioner has
6 acknowledged and waived the right to testify, the right to a speedy
7 trial, the right to call witnesses to testify, the right to present
8 evidence in his or her defense, and the right to a jury trial; and
9 (d) the petitioner's statements were made knowingly and voluntarily.
10 Such findings shall be included in the order granting deferred
11 prosecution.

12 **Sec. 5.** RCW 10.05.030 and 2019 c 263 s 704 are each amended to
13 read as follows:

14 The arraigning judge upon consideration of the petition and with
15 the concurrence of the prosecuting attorney may continue the
16 arraignment and refer such person for a diagnostic investigation and
17 evaluation to:

18 (1) (~~(An approved substance use disorder treatment program)~~) A
19 Washington state-approved behavioral health agency, approved for
20 mental health services and substance use disorder services, as
21 designated in chapter 71.24 RCW if the petition alleges a substance
22 use disorder;

23 (2) An approved mental health center if the petition alleges a
24 mental (~~(problem)~~) health disorder;

25 (3) The department of (~~(social and)~~) health (~~(services)~~) if the
26 petition is brought under RCW 10.05.020(2); or

27 (4) An approved state-certified domestic violence treatment
28 provider pursuant to chapter 26.50 RCW if the petition alleges a
29 domestic violence behavior problem.

30 **Sec. 6.** RCW 10.05.030 and 2021 c 215 s 116 are each amended to
31 read as follows:

32 The arraigning judge upon consideration of the petition and with
33 the concurrence of the prosecuting attorney may continue the
34 arraignment and refer such person for a diagnostic investigation and
35 evaluation to:

36 (1) (~~(An approved substance use disorder treatment program)~~) A
37 Washington state-approved behavioral health agency, approved for
38 mental health services and substance use disorder services, as

1 designated in chapter 71.24 RCW if the petition alleges a substance
2 use disorder;

3 (2) An approved mental health center if the petition alleges a
4 mental (~~(problem)~~) health disorder;

5 (3) The department of (~~(social and)~~) health (~~(services)~~) if the
6 petition is brought under RCW 10.05.020(2); or

7 (4) An approved state-certified domestic violence treatment
8 provider pursuant to RCW 43.20A.735 if the petition alleges a
9 domestic violence behavior problem.

10 **Sec. 7.** RCW 10.05.040 and 2018 c 201 s 9005 are each amended to
11 read as follows:

12 The program to which such person is referred, or the department
13 of (~~(social and)~~) health (~~(services)~~) if the petition is brought
14 under RCW 10.05.020(2), shall conduct an investigation and
15 examination to determine:

16 (1) Whether the person suffers from the problem described;

17 (2) Whether the problem is such that if not treated, or if no
18 child welfare services are provided, there is a probability that
19 similar misconduct will occur in the future;

20 (3) Whether extensive and long term treatment is required;

21 (4) Whether effective treatment or child welfare services for the
22 person's problem are available; and

23 (5) Whether the person is (~~(amenable)~~): (a) Amenable to treatment
24 as demonstrated by (i) completion of residential treatment; (ii)
25 completion of a minimum of 18 hours of intensive outpatient
26 treatment, for substance use disorder petitions; (iii) completion of
27 a minimum of six mental health sessions, for mental health disorder
28 petitions; or (iv) completion of a minimum of six domestic violence
29 treatment sessions for domestic violence petitions; or (b) willing to
30 cooperate with child welfare services. The requirement for completing
31 a minimum number of sessions may be waived if the court finds good
32 cause.

33 **Sec. 8.** RCW 10.05.050 and 2018 c 201 s 9006 are each amended to
34 read as follows:

35 (1) The program, or the department of (~~(social and)~~) health
36 (~~(services)~~) if the petition is brought under RCW 10.05.020(2), shall
37 make a written report to the court stating its findings and
38 recommendations after the examination required by RCW 10.05.040. If

1 its findings and recommendations support treatment or the
2 implementation of a child welfare service plan, it shall also
3 recommend a treatment or service plan setting out:

- 4 (a) The type;
- 5 (b) Nature;
- 6 (c) Length;
- 7 (d) A treatment or service time schedule; and
- 8 (e) Approximate cost of the treatment or child welfare services.

9 (2) In the case of a child welfare service plan, the plan shall
10 be designed in a manner so that a parent who successfully completes
11 the plan will not be likely to withhold the basic necessities of life
12 from his or her child.

13 (3) The report with the treatment or service plan shall be filed
14 with the court and a copy given to the petitioner and petitioner's
15 counsel. A copy of the treatment or service plan shall be given to
16 the prosecutor by petitioner's counsel at the request of the
17 prosecutor. The evaluation facility, or the department of (~~social~~
18 ~~and~~) health (~~services~~) if the petition is brought under RCW
19 10.05.020(2), making the written report shall append to the report a
20 commitment by the treatment program or the department of (~~social~~
21 ~~and~~) health (~~services~~) that it will provide the treatment or child
22 welfare services in accordance with this chapter. The facility or the
23 service provider shall agree to provide the court with a statement
24 (~~every three months for the first year and every six months for the~~
25 ~~second year~~) monthly regarding (a) the petitioner's cooperation with
26 the treatment or child welfare service plan proposed and (b) the
27 petitioner's progress or failure in treatment or child welfare
28 services. These statements shall be made as a declaration by the
29 person who is personally responsible for providing the treatment or
30 services.

31 **Sec. 9.** RCW 10.05.060 and 2009 c 135 s 1 are each amended to
32 read as follows:

33 If the report recommends treatment, the court shall examine the
34 treatment plan. If it approves the plan and the petitioner agrees to
35 comply with its terms and conditions and agrees to pay the cost
36 thereof, if able to do so, or arrange for the treatment, an entry
37 shall be made upon the person's court docket showing that the person
38 has been accepted for deferred prosecution. A copy of the treatment
39 plan shall be filed with the court. If the charge be one that an

1 abstract of the docket showing the charge, the date of the violation
2 for which the charge was made, and the date of petitioner's
3 acceptance is required to be sent to the department of licensing, an
4 abstract shall be sent, and the department of licensing shall make an
5 entry of the charge and of the petitioner's acceptance for deferred
6 prosecution on the department's driving record of the petitioner. The
7 entry is not a conviction for purposes of Title 46 RCW. Upon receipt
8 of the abstract of the docket, the department shall issue the
9 petitioner a probationary license in accordance with RCW 46.20.355,
10 and the petitioner's driver's license shall be on probationary status
11 for five years from the date of the violation that gave rise to the
12 charge. The department shall maintain the record (~~(for ten years from~~
13 ~~date of entry of the order granting deferred prosecution)) consistent
14 with the requirements of RCW 46.01.260.~~

15 **Sec. 10.** RCW 10.05.090 and 2010 c 269 s 10 are each amended to
16 read as follows:

17 If a petitioner, who has been accepted for a deferred
18 prosecution, fails or neglects to carry out and fulfill any term or
19 condition of the petitioner's treatment plan or any term or condition
20 imposed in connection with the installation of an interlock or other
21 device under RCW 46.20.720, the facility, center, institution, or
22 agency administering the treatment or the entity administering the
23 use of the device, shall immediately report such breach to the court,
24 the prosecutor, and the petitioner or petitioner's attorney of
25 record, together with its recommendation. The court upon receiving
26 such a report shall hold a hearing to determine whether the
27 petitioner should be removed from the deferred prosecution
28 (~~(program)~~). At the hearing, evidence shall be taken of the
29 petitioner's alleged failure to comply with the treatment plan or
30 device installation and the petitioner shall have the right to
31 present evidence on his or her own behalf. The court shall either
32 order that the petitioner continue on the treatment plan or be
33 removed from deferred prosecution. If removed from deferred
34 prosecution, the court shall enter judgment pursuant to RCW 10.05.020
35 and, if the charge for which the deferred prosecution was granted was
36 a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify
37 the department of licensing of the removal and entry of judgment.

1 **Sec. 11.** RCW 10.05.100 and 1998 c 208 s 2 are each amended to
2 read as follows:

3 If a petitioner is subsequently convicted of a similar offense
4 that was committed while the petitioner was in a deferred prosecution
5 ((program)), upon notice the court shall remove the petitioner's
6 docket from the deferred prosecution file and the court shall enter
7 judgment pursuant to RCW 10.05.020.

8 **Sec. 12.** RCW 10.05.120 and 2019 c 263 s 705 are each amended to
9 read as follows:

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

18 (2) When a deferred prosecution is ordered pursuant to a petition
19 brought under RCW 10.05.020(2) and the court has received proof that
20 the petitioner has successfully completed the child welfare service
21 plan, or the plan has been terminated because the alleged victim has
22 reached his or her majority and there are no other minor children in
23 the home, the court shall dismiss the charges pending against the
24 petitioner: PROVIDED, That in any case where the petitioner's
25 parental rights have been terminated with regard to the alleged
26 victim due to abuse or neglect that occurred during the pendency of
27 the deferred prosecution, the termination shall be per se evidence
28 that the petitioner did not successfully complete the child welfare
29 service plan.

30 ~~((3) When a deferred prosecution is ordered for a petition
31 brought under RCW 10.05.020(1) involving a domestic violence behavior
32 problem and the court has received proof that the petitioner has
33 successfully completed the domestic violence treatment plan, the
34 court shall dismiss the charges pending against the petitioner.))~~

35 **Sec. 13.** RCW 10.05.140 and 2019 c 263 s 706 are each amended to
36 read as follows:

37 (1) As a condition of granting a deferred prosecution petition
38 for a violation of RCW 46.61.502 or 46.61.504, the court shall order

1 that the petitioner shall not operate a motor vehicle upon the public
2 highways without a valid operator's license and proof of liability
3 insurance. The amount of liability insurance shall be established by
4 the court at not less than that established by RCW 46.29.490. As a
5 condition of granting a deferred prosecution petition on any
6 (~~alcohol-dependency~~) substance use disorder-based case, the court
7 shall also order the installation of an ignition interlock under RCW
8 46.20.720. The required periods of use of the interlock shall be not
9 less than the periods provided for in RCW 46.20.720. As a condition
10 of granting a deferred prosecution petition, the court may order the
11 petitioner to make restitution and to pay costs as defined in RCW
12 10.01.160. To help ensure continued sobriety and reduce the
13 likelihood of reoffense, the court may order reasonable conditions
14 during the period of the deferred prosecution including, but not
15 limited to, attendance at self-help recovery support groups for
16 (~~alcoholism or drugs~~) substance use disorder, complete abstinence
17 from alcohol and all nonprescribed mind-altering drugs, periodic
18 urinalysis or breath analysis, and maintaining law-abiding behavior.
19 The court may terminate the deferred prosecution (~~program~~) upon
20 violation of the deferred prosecution order.

21 (2) As a condition of granting a deferred prosecution petition
22 for a case involving a domestic violence behavior problem:

23 (a) The court shall order the petitioner not to possess firearms
24 and order the petitioner to surrender firearms under RCW 9.41.800;
25 and

26 (b) The court may order the petitioner to make restitution and to
27 pay costs as defined in RCW 10.01.160. In addition, to help ensure
28 continued sobriety and reduce the likelihood of reoffense in co-
29 occurring domestic violence and substance (~~abuse~~) use disorder or
30 mental health disorder cases, the court may order reasonable
31 conditions during the period of the deferred prosecution including,
32 but not limited to, attendance at self-help recovery support groups
33 for (~~alcoholism or drugs~~) substance use disorder, complete
34 abstinence from alcohol and all nonprescribed mind-altering drugs,
35 periodic urinalysis or breath analysis, and maintaining law-abiding
36 behavior. The court may terminate the deferred prosecution
37 (~~program~~) upon violation of the deferred prosecution order.

38 **Sec. 14.** RCW 10.05.150 and 2016 sp.s. c 29 s 527 are each
39 amended to read as follows:

1 (1) A deferred prosecution ((program)) for ((alcoholism)) either
2 substance use disorder or mental health disorder shall be for a two-
3 year period and shall include, but not be limited to, the following
4 requirements:

5 ~~((1))~~ (a) Total abstinence from alcohol and all other
6 nonprescribed mind-altering drugs;

7 ~~((2) Participation in an intensive inpatient or intensive~~
8 ~~outpatient program in a state-approved substance use disorder~~
9 ~~treatment program;~~

10 ~~(3) Participation in a minimum of two meetings per week of an~~
11 ~~alcoholism self-help recovery support group, as determined by the~~
12 ~~assessing agency, for the duration of the treatment program;~~

13 ~~(4) Participation in an alcoholism self-help recovery support~~
14 ~~group, as determined by the assessing agency, from the date of court~~
15 ~~approval of the plan to entry into intensive treatment;~~

16 ~~(5) Not less than weekly approved outpatient counseling, group or~~
17 ~~individual, for a minimum of six months following the intensive phase~~
18 ~~of treatment;~~

19 ~~(6) Not less than monthly outpatient contact, group or~~
20 ~~individual, for the remainder of the two-year deferred prosecution~~
21 ~~period;~~

22 ~~(7) The decision to include the use of prescribed drugs,~~
23 ~~including disulfiram, as a condition of treatment shall be reserved~~
24 ~~to the treating facility and the petitioner's physician;~~

25 ~~(8))~~ (b) All treatment within the purview of this section shall
26 occur within or be approved by a Washington state-approved substance
27 use disorder treatment program as described in chapter ((70.96A))
28 71.24 RCW;

29 ~~((9))~~ (c) Signature of the petitioner agreeing to the terms and
30 conditions of the treatment program;

31 (d) Periodic, random urinalysis or breath analysis; and

32 (e) If the petitioner fails to remain abstinent, a full substance
33 use disorder reassessment and recommended treatment.

34 (2) A deferred prosecution for substance use disorder shall also
35 include the following requirements:

36 (a) Completion of an intensive outpatient treatment program or
37 residential inpatient treatment program, depending on the severity of
38 the diagnosis;

39 (b) Participation in a minimum of two meetings per week of a
40 substance use disorder self-help recovery support group, as

1 determined by the assessing agency, for the duration of the treatment
2 program;

3 (c) No less than weekly approved outpatient counseling, whether
4 group or individual, for a minimum of six months following the
5 intensive phase of treatment;

6 (d) No less than monthly outpatient contact, whether group or
7 individual, for the remainder of the two-year deferred prosecution
8 period; and

9 (e) The decision to include the use of prescribed drugs,
10 including disulfiram, as a condition of treatment shall be reserved
11 to the treating facility and the petitioner's physician.

12 (3) A deferred prosecution for mental health disorder shall also
13 include the following requirements:

14 (a) If there is a mild substance use disorder in addition to a
15 mental health disorder diagnosis, completion of outpatient
16 programming; and

17 (b) Completion of individual or group mental health services.

18 **Sec. 15.** RCW 10.05.155 and 2019 c 263 s 708 are each amended to
19 read as follows:

20 A deferred prosecution ((program)) for domestic violence
21 behavior, or domestic violence co-occurring with substance abuse or
22 mental health, must include, but is not limited to, the following
23 requirements:

24 (1) Completion of a risk assessment;

25 (2) Participation in the level of treatment recommended by the
26 program as outlined in the current treatment plan;

27 (3) Compliance with the contract for treatment;

28 (4) Participation in any ancillary or co-occurring treatments
29 that are determined to be necessary for the successful completion of
30 the domestic violence intervention treatment including, but not
31 limited to, mental health or substance use treatment;

32 (5) Domestic violence intervention treatment within the purview
33 of this section to be completed with a state-certified domestic
34 violence intervention treatment program;

35 (6) Signature of the petitioner agreeing to the terms and
36 conditions of the treatment program;

37 (7) Proof of compliance with any active order to surrender
38 weapons issued in this program or related civil protection orders or
39 no-contact orders.

1 **Sec. 16.** RCW 10.05.170 and 1991 c 247 s 2 are each amended to
2 read as follows:

3 As a condition of granting deferred prosecution, the court may
4 order supervision of the petitioner during the period of deferral and
5 may levy a monthly assessment upon the petitioner as provided in RCW
6 10.64.120. In a jurisdiction with a probation department, the court
7 may appoint the probation department to supervise the petitioner. In
8 a jurisdiction without a probation department, the court may appoint
9 an appropriate person or agency to supervise the petitioner. A
10 supervisor appointed under this section shall be required to do at
11 least the following:

12 (1) If the charge for which deferral is granted relates to
13 operation of a motor vehicle, at least once every ~~((six))~~ three
14 months request ~~((from the department of licensing))~~ an abstract of
15 the petitioner's driving record; ~~((and))~~

16 (2) At least once every month make contact with the petitioner
17 ~~((or with any agency to which the petitioner has been directed for~~
18 ~~treatment as a part of the deferral))~~ until treatment is completed;

19 (3) Review the petitioner's criminal history at a minimum of
20 every 90 days until the end of the deferral period; and

21 (4) Report known violations of supervision or law and
22 noncompliance with conditions of the deferred prosecution to the
23 court within five business days or as soon as practicable.

24 NEW SECTION. **Sec. 17.** Sections 3 and 5 of this act expire July
25 1, 2022.

26 NEW SECTION. **Sec. 18.** Sections 4 and 6 of this act take effect
27 July 1, 2022.

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