



BAINBRIDGE ISLAND MUNICIPAL COURT

ALCOHOLISM, DRUG ADDICTION, MENTAL HEALTH

DEFERRED PROSECUTION

This packet includes the preferred forms for a Deferred Prosecution based on alcoholism, drug addiction, and mental health. If there is ONLY a mental health condition and no substance abuse problem, use the mental health deferred prosecution packet and forms. The order granting the deferred prosecution is included in the packet so that a defendant may review it prior to the hearing. The Court prefers that these forms are used and that petitions are not submitted on attorney letterhead.

It is the court's policy that a defendant participating in this program shall abstain from alcohol, marijuana, and non-prescribed drugs, unless specifically permitted by the treatment provider in writing and approved by the Court.

BAINBRIDGE ISLAND MUNICIPAL COURT
Mailing address: PO Box 151
Rollingbay, WA 98061

Location address: 10255 NE Valley Road
Bainbridge Island, WA 98110
Phone: 206-842-5641
Fax: 206-842-0316
Email: court@bainbridgewa.gov
Website: www.bainbridgewa.gov/court

<p align="center">BAINBRIDGE ISLAND MUNICIPAL COURT Kitsap County, Washington</p>	<p>Mailing Addr: PO Box 151, Rolling Bay, WA 98061 Location: 10255 NE Valley Rd, Bainbridge Island, WA Phone # 206-842-5641 Fax # 206-842-0316 Email: court@bainbridgewa.gov www.bainbridgewa.gov/court</p>
<p>CITY OF BAINBRIDGE ISLAND, Plaintiff,</p> <p>vs.</p> <p>_____</p> <p align="right">Defendant.</p>	<p>Case #: _____</p> <p>Petition for Deferred Prosecution</p> <p><input type="checkbox"/> No BAC)</p> <p><input type="checkbox"/> BAC results _____)</p> <p><input type="checkbox"/> BAC refused)</p> <p><input type="checkbox"/> Passenger under age 16)</p> <p><input type="checkbox"/> THC)</p>

I am the defendant in this case and I petition the court for deferred prosecution under RCW Chapter 10.05 for the following crime(s): _____.

I make the following statement in support of my petition:

1. Wrongful Conduct. The wrongful conduct charged is the result of or caused by substance use disorders 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. Costs of Program. I agree to pay the cost of diagnosis and treatment if I am financially able to do so.
4. Not Innocent and Need Treatment. I understand that 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 Deferred Prosecution. If this charge is a violation of Title 46 or similar municipal ordinance, I have not previously been placed on a deferred prosecution for a Title 46 or similar municipal ordinance violation.
6. Case History and Assessment. I have filed with this petition a case history, and written assessment prepared by an approved substance use disorder treatment program if the petition alleges a substance use disorder or by an approved mental health center if the petition alleges a mental problem.

7. A. My Rights. I acknowledge that I have the following rights to:
- (a) Have a lawyer represent me at all hearings;
 - (b) Have a lawyer appointed at public expense if I cannot afford one;
 - (c) Have 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 charge(s) against me is (are) proved beyond a reasonable doubt; and
 - (i) Present evidence and a defense.
- B. Waiver of My Rights. By deferring prosecution on my charge(s), I acknowledge and waive my right to:
- (a) A speedy trial;
 - (b) A jury trial;
 - (c) Testimony on my own behalf;
 - (d) An opportunity to call witnesses to testify;
 - (e) An opportunity to question witnesses; and
 - (f) Present evidence or a defense.
8. Agree and Stipulate to Facts in Police Reports. I agree and stipulate that the facts as reported in the written police report(s) are admissible and the facts are sufficient to support a conviction on the charge(s). I acknowledge that my statement will be entered and used to support a finding of guilty 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 I 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 if originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).

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 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 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).
- D. Financial Obligations. I may also be required to pay restitution to victims, pay court costs of \$250, and pay probation costs of \$750, (and BAC fee of \$250 and emergency response costs if 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-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 Washington State. 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: (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; (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 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 Charge(s) Following Successful Compliance. The court will dismiss the charge(s) 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.

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 _____, _____.

Petitioner-Defendant

Defense Attorney/WSBA No.

<p align="center">BAINBRIDGE ISLAND MUNICIPAL COURT Kitsap County, Washington</p>	<p>Mailing Addr: PO Box 151, Rolling Bay, WA 98061 Location: 10255 NE Valley Rd, Bainbridge Island, WA Phone # 206-842-5641 Fax # 206-842-0316 Email: court@bainbridgewa.gov www.bainbridgewa.gov/court</p>
<p>CITY OF BAINBRIDGE ISLAND vs. _____ Plaintiff, _____ Defendant.</p>	<p>CASE #: _____ NOTICE OF INSURANCE COVERAGE FOR DEFERRED PROSECUTION</p>

This notice is to advise both the Court and the Plaintiff of the nature and extent of insurance coverage held by the above named defendant who is petitioning for Deferred Prosecution in this Court. This coverage is to show compliance with requirements of RCW 10.05.140 and is included by reference, RCW 46.29.490

NAME OF INSURED: _____

ADDRESS OF INSURED: _____

COVERAGE:
Bodily injury/death to one person \$ (min. 25,000) _____
Bodily injury/death to two or more persons \$ (min. 50,000) _____
Injury to/destruction of property of others \$ (min 10,000) _____

PREMIUM: _____

POLICY PERIOD: _____

LIMITS OF LIABILITY: _____

Attached is an agreement or endorsement that insurance is provided under the policy in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both and is subject to all the provisions of this chapter. I agree to maintain the minimum required insurance coverages for the entire deferred prosecution period.

THE ABOVE INFORMATION IS GIVEN AS TRUE AND ACCURATE.

DATED: _____

PRESENTED BY:

Attorney for the Petitioner/ Defendant

Defendant

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<p>CITY OF BAINBRIDGE ISLAND Plaintiff,</p> <p>vs</p> <hr/> <p align="right">Defendant.</p>	<p>Case # _____</p> <p>DECLARATION OF NON-DRIVING STATUS FOR DEFERRED PROSECUTION</p>

I, _____, defendant in this matter, say the following:

1. I understand that I am not authorized by this court to drive during this Deferred Prosecution without first obtaining the prior written permission of this court. To be granted permission I must show compliance with RCW 10.05.140 and RCW 46.29.490 (obtaining valid driver's license, automobile liability insurance, and ignition interlock).
2. My failure to comply with the above requirements will constitute a violation of RCW 10.05.140, and may result in a revocation of the deferred prosecution.

I certify under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct.

DATED: _____

Petitioner

Intent to Seek Deferred Prosecution

Deferred Prosecution
 Department of Licensing
 PO Box 9030
 Olympia, WA 98507

If you intend to seek deferred prosecution from the court for an alcohol/drug related offense, you may use this form to request that the Department of Licensing (DOL) postpone suspension or revocation of your driver license.

This postponement (or stay) is no longer than 150 days after the charges are filed in court, or two years after the date of the arrest, whichever is shorter. The stay does not apply to a commercial driver license.

To qualify, you must:

- Have taken a breath/blood test at the time of your arrest.
- Not have previously entered into any alcohol/drug deferred prosecution program.
- Send this completed form by email or fax to:

Email: defprosnoi@dol.wa.gov

Fax: (360) 902-3802

If you qualify for a stay, we will notify you by mail.

Applicant

Name (Last, First, Middle initial)		Date of birth	(Area code) Daytime telephone number	
Driver license number	State	Date of arrest	Date charged	
Representing attorney name (if applicable)				
Attorney mailing address				
City	State	ZIP code	(Area code) Telephone number	

Failure to appear for an administrative interview or hearing can result in a license suspension. If you are scheduled for an administrative hearing, be sure to cancel or appear as scheduled. To cancel, see **Request to Reschedule or Cancel Administrative Interview or Hearing (HRNG-525-005)**.

Defendant's Name: _____ Case Number: _____

Monitored A.A. Attendance Record
Sheets Must Be Signed By Meeting Secretary

<u>Date</u>	<u>Name of Group</u>	<u>Topic</u>	<u>Secretary</u> (1 st Name, Last init)
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____
12.	_____	_____	_____
13.	_____	_____	_____
14.	_____	_____	_____

**I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE
SECRETARY SIGNATURE(S) ABOVE ARE AUTHENTIC AND WERE SIGNED ON
THE DAY(S) OF THE MEETING(S)**

Defendant's signature: _____

The defendant has been instructed to return this form to Bainbridge Island Municipal Court.

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<p>CITY OF BAINBRIDGE ISLAND, Plaintiff,</p> <p align="center">vs.</p> <hr/> <p align="center">Defendant/Petitioner</p>	<p>NO.</p> <p>ORDER GRANTING DEFERRED PROSECUTION</p> <p>CLERK'S ACTION REQUIRED (Paragraph III B)</p>

THIS MATTER having come on regularly before the undersigned Judge of the above-entitled Court upon the Defendant's petition for deferred prosecution; the Defendant/Petitioner (hereafter "Petitioner") having been referred to an approved treatment facility for investigation and examination, and the facility report, including findings and recommendations and commitment to treatment having been furnished to the Court; the Petitioner having examined the report and proposed treatment plan and having indicated acceptance thereof, and being in agreement to follow the proposed treatment plan; the Petitioner having signed the Petition for Deferred Prosecution; and the Court being fully advised in the premises, now, therefor, makes the following –

I.
FINDINGS – GENERAL

- A. Charge(s). The Petitioner petitions the Court to be considered for a deferred prosecution program pursuant to Chapter 10.05 RCW for the following offense(s) charged herein: _____
-
- B. Eligibility. The Petitioner is eligible for a deferred prosecution program pursuant to RCW 10.05.010.
- C. Treatment Needed. The Petitioner asserts that the wrongful conduct charged herein is the result of or caused by substance use disorders mental problems, for which Petitioner needs treatment.
- D. Requirements of Petition. The Petition for Deferred Prosecution satisfies the requirements of RCW 10.05.020.
- E. Treatment Plan. The Court has examined the Petitioner's proposed treatment plan which satisfies the requirements of RCW 10.05.040 and 10.05.050. The proposed treatment program is for alcoholism and satisfies the requirements of RCW 10.05.150.
- F. Compliance and Payment. The Petitioner agrees to comply with the terms and conditions of the proposed treatment plan, and agrees to pay the cost thereof, if able to do so, or arrange for the treatment.
- G. Copy of Treatment Plan. A copy of the proposed treatment plan has been filed with the Court.
- H. Treatment Plan Approved. The Court approves the Petitioner's proposed treatment plan.

II.
FINDINGS – RCW 10.05.020(4)

- A. Stipulation to Facts. The Petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report.
- B. Admissibility of Stipulated Facts. The Petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution.
- C. Waiver of Rights. The Petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial.
- D. Knowing and Voluntary. The Petitioner's statements were made knowingly and voluntarily.

III.
ORDER GRANTING DEFERRED PROSECUTION

- A. Petition Granted. The Petitioner's Petition for Deferred Prosecution is granted. The petitioner shall successfully complete the treatment program approved by the Court.
- B. Clerk Action. The Clerk shall make entry upon the Petitioner's court docket showing that the Petitioner has been accepted for deferred prosecution. The Clerk shall also notify the Department of Licensing of this order accepting the Petitioner for deferred prosecution if such notice is required. RCW 10.05.060.
- C. Valid Operator's License and Insurance. The Petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall not be less than established by RCW 46.29.490. The Petitioner shall file written proof of liability insurance today, or in the absence of such written proof the Petitioner shall not operate any motor vehicle until such written proof is filed with the Court. RCW 10.05.140.
- D. Ignition Interlock. This deferred prosecution is on an alcohol-dependency case. The Petitioner shall install an ignition interlock under RCW 46.20.720. The required periods of use of the interlock shall not be less than the periods provided for in RCW 46.20.720. RCW 10.05.140.
- E. Restitution. The Petitioner shall make restitution within two years of today's date, pursuant to RCW 10.05.140, as follows:
- DUI Emergency Response Costs as required by a separate order. RCW 38.52.430.
 - \$250.00 Toxicology Laboratory Fee. (The Court may suspend the fee upon a verified petition by the Petitioner that he or she does not have the ability to pay). RCW 46.61.5054.
 - Restitution in the amount determined within 180 days from today's date, or as required by separate order.

F. Legal Financial Obligation. The Petitioner shall pay a \$750.00 deferred prosecution assessment. RCW 10.05.170, 10.64.120. The Court finds that the Petitioner has the present or future ability to pay an additional \$250.00 deferred prosecution administrative cost, RCW 10.01.160(2).

G. Probation Department. The Petitioner's compliance with this order shall be supervised by the Court's Probation Clerk, pursuant to RCW 10.05.170. The Petitioner is responsible for signing all necessary releases with treatment agencies and filing timely written proof with the Probation Clerk showing the Petitioner's compliance with this order. The failure of the Petitioner to file timely written proof of compliance is a violation of this order.

H. Conditions. The Petitioner shall comply, pursuant to RCW 10.05.140, with the following conditions of granting the deferred prosecution petition:

- Self-Help Groups. Attendance at a minimum of two self-help recovery support groups per week for alcoholism or drugs.
- Victim Impact Panel. If not already completed, attend a state certified DUI Victim Impact Panel and file proof.
- Abstinence. Complete abstinence from alcohol and all non-prescribed mind-altering drugs, including abstinence from marijuana.
- Submission to Tests. Submit to a periodic breath test, blood test, saliva test, or urinalysis, at the Petitioner's expense, when requested by the Court, Probation Department, any law enforcement officer and/or treatment staff.
- Maintain Law-Abiding Behavior. The Petitioner shall not commit any violation of criminal laws.
- Anger Management. Successful completion of an anger management course.
- DV Perpetrator's Treatment. Successful completion of a domestic violence perpetrator's treatment program.
- Other. _____

I. Changes, Non-Compliance. The Petitioner shall immediately notify the Court and Probation Department about any changes in residence and/or mailing address, telephone number, any change or non-compliance with the approved treatment program, any violations of this Order, and any criminal law violations or arrests.

J. Incomplete or Inaccurate Criminal History. If the Petitioner has not given the Court a complete and accurate account of all criminal law violations, arrests, charges and/or dispositions, a hearing shall be held to determine why the Petitioner should not be removed from this deferred prosecution, and arraigned and prosecuted for the charge(s) herein.

K. Failure to Comply. If the Petitioner fails or neglects to carry out or fulfill any of the terms and conditions of this order, a hearing shall be held to determine why the Petitioner should not be removed from this deferred prosecution, and arraigned and prosecuted for the charge(s) herein.

L. Personal Appearance Required. The Petitioner shall personally appear in Court for all hearings set by the Court, whether by an order of release or summons, unless waived in advance by the Court.

M. Other. _____

FUTURE COURT DATES:

REVIEW DATE: _____ **9:00 AM**

2 YEAR REVIEW DATE: _____ **9:00 AM**

5 YEAR REVIEW DATE: _____ **9:00 AM**

DATED AND FILED: _____

JUDGE

If the Defendant fails to comply with any of the above, a bench warrant may be issued, additional charges may be filed, the Court may notify Department of Licensing and your driver's license may be suspended.

Defendant's Signature Mailing/Residence Address, City and Zip Code

Home Phone: _____ Cell Phone: _____ Email: _____