
SENATE BILL 6181

State of Washington

54th Legislature

1996 Regular Session

By Senator Smith

Read first time 01/08/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to requirements of a petition for deferred
2 prosecution; and amending RCW 10.05.020.

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

4 **Sec. 1.** RCW 10.05.020 and 1985 c 352 s 6 are each amended to read
5 as follows:

6 (1) The petitioner shall allege under oath in the petition that the
7 wrongful conduct charged is the result of or caused by alcoholism, drug
8 addiction, or mental problems for which the person is in need of
9 treatment and unless treated the probability of future reoccurrence is
10 great, along with a statement that the person agrees to pay the cost of
11 a diagnosis and treatment of the alleged problem or problems if
12 financially able to do so. The petition shall also contain a case
13 history and written assessment prepared by an approved alcoholism
14 treatment ((facility)) program as designated in chapter 70.96A RCW if
15 the petition alleges alcoholism, an approved drug program as designated
16 in chapter 71.24 RCW if the petition alleges drug addiction, or by an
17 approved mental health center if the petition alleges a mental problem.

18 (2) Before entry of an order deferring prosecution, a petitioner
19 shall be advised of his or her rights as an accused and execute, as a

1 condition of receiving treatment, a statement that contains: (a) An
2 acknowledgement of his or her rights; (b) an acknowledgement and waiver
3 of the right to testify, the right to a speedy trial, the right to call
4 witnesses to testify, the right to present evidence in his or her
5 defense, and the right to a jury trial; (c) a stipulation to the
6 admissibility and sufficiency of the facts contained in the written
7 police report; and ~~((e))~~ (d) an acknowledgement that the statement
8 will be entered and used to support a finding of guilty if the court
9 finds cause to revoke the order granting deferred prosecution. The
10 petitioner shall also be advised that he or she may, if he or she
11 proceeds to trial and is found guilty, be allowed to seek suspension of
12 some or all of the fines and incarceration that may be ordered upon the
13 condition that he or she seek treatment and, further, that he or she
14 may seek treatment from public and private agencies at any time without
15 regard to whether or not he or she is found guilty of the offense
16 charged. He or she shall also be advised that the court will not
17 accept a petition for deferred prosecution from a person who sincerely
18 believes that he or she is innocent of the charges or sincerely
19 believes that he or she does not, in fact, suffer from alcoholism, drug
20 addiction, or mental problems.

21 (3) Before entering an order deferring prosecution, the court shall
22 make specific findings that: (a) The petitioner has stipulated to the
23 admissibility and sufficiency of the facts as contained in the written
24 police report; (b) the petitioner has acknowledged the admissibility of
25 the stipulated facts in any criminal hearing ~~((or trial))~~ on the
26 underlying offense or offenses held subsequent to revocation of the
27 order granting deferred prosecution; ~~((and))~~ (c) the petitioner has
28 acknowledged and waived the right to testify, the right to a speedy
29 trial, the right to call witnesses to testify, the right to present
30 evidence in his or her defense, and the right to a jury trial; and (d)
31 the petitioner's statements were made knowingly and voluntarily. Such
32 findings shall be included in the order granting deferred prosecution.

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