
SUBSTITUTE SENATE BILL 6139

State of Washington

52nd Legislature

1992 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Nelson and Erwin)

Read first time 01/24/92.

1 AN ACT Relating to waiver of a jury trial for granting deferred
2 prosecution; and amending RCW 10.05.020 and 10.05.140.

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

1 the petition alleges alcoholism, an approved drug program as designated
2 in chapter 71.24 RCW if the petition alleges drug addiction, or by an
3 approved mental health center if the petition alleges a mental problem.

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

24 (3) Before entering an order deferring prosecution, the court shall
25 make specific findings that: (a) The petitioner has stipulated to the
26 admissibility of the facts as contained in the written police report;
27 (b) the petitioner has acknowledged the admissibility of the stipulated
28 facts in any criminal hearing or trial on the underlying offense or
29 offenses held subsequent to revocation of the order granting deferred
30 prosecution; ~~((and))~~ (c) the petitioner's statements were made

1 knowingly and voluntarily; and (d) the petitioner has acknowledged the
2 right to a jury trial and waived the right to a jury trial. Such
3 findings shall be included in the order granting deferred prosecution.

4 **Sec. 2.** RCW 10.05.140 and 1991 c 247 s 1 are each amended to read
5 as follows:

6 As a condition of granting a deferred prosecution petition, the
7 court shall order that the petitioner shall not operate a motor vehicle
8 upon the public highways without a valid operator's license and proof
9 of liability insurance. The amount of liability insurance shall be
10 established by the court at not less than that established by RCW
11 46.29.490. The court shall not grant a deferred prosecution unless the
12 defendant has executed all acknowledgements, stipulations, and waivers
13 as specified in RCW 10.05.020(2), including a waiver of the right to a
14 jury trial. As a condition of granting a deferred prosecution
15 petition, the court may order the petitioner to make restitution and to
16 pay costs as defined in RCW 10.01.160. The court may terminate the
17 deferred prosecution program upon violation of this section.