
SENATE BILL 6139

State of Washington 52nd Legislature 1992 Regular Session

By Senators Nelson and Erwin

Read first time 01/17/92. Referred to Committee on Law & Justice.

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

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

1 and voluntarily. Such findings shall be included in the order granting
2 deferred prosecution.

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

5 As a condition of granting a deferred prosecution petition, the
6 court shall order that the petitioner shall not operate a motor vehicle
7 upon the public highways without a valid operator's license and proof
8 of liability insurance. The amount of liability insurance shall be
9 established by the court at not less than that established by RCW
10 46.29.490. As a condition of granting a deferred prosecution petition,
11 the court may order the petitioner to make restitution and to pay costs
12 as defined in RCW 10.01.160 and may require the petitioner to waive the
13 right to a trial by jury. The court may terminate the deferred
14 prosecution program upon violation of this section.