



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.

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</p>
<p>CITY OF BAINBRIDGE ISLAND, Plaintiff, vs. _____ Defendant.</p>	<p>Case #: _____ Petition for Deferred Prosecution (DPPF) Charges: _____ Violation Date: _____</p>

I am the defendant in this case and I petition the court for deferred prosecution under RCW Chapter 10.05. I make the following statement in support of my petition:

1. The wrongful conduct charged is the result of or caused by **Alcoholism** **Drug Addiction** **Mental Problems**, for which I need treatment.
2. Unless I receive treatment for my problem, the probability is great that I will offend again.
3. I agree to pay the cost of diagnosis and treatment, if I am financially able to do so, subject to RCW 10.05.130.
4. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from alcoholism, drug addiction, or mental problems.
5. 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. I have filed a case history and assessment with this petition as required by RCW 10.05.020.
7. I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to have a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is (are) proved beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I give up my right to: (a) a speedy trial; (b) a jury; (c) testimony on my own behalf; an opportunity to (d) call and (e) question witnesses; and (f) present evidence or a defense.
8. I agree that the facts as reported in the attached police reports are admissible evidence and are sufficient to support a conviction. I acknowledge that the above items will be used to support a finding of guilty if the deferred prosecution is revoked.
9. If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law.
10. If I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if 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. 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. 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. If the court grants this Petition, 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. If my wrongful conduct is the result of or caused by alcohol dependency, I shall also be required to apply for an ignition interlock driver's license and to install an ignition interlock device under RCW 46.20.720(2) and RCW 46.20.385. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720(3). I may also be required to pay restitution to victims, pay court costs, and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of reoffense, 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, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Alcoholism 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 this paragraph.
13. 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. If I fail or neglect to comply with any part of my treatment plan or with any ignition interlock driver's license or ignition interlock device requirements, then the court shall either order me to comply with the term or condition or be removed from deferred prosecution (RCW 10.05.090). 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. 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 align="right">Mailing Address: PO Box 151, Rollingbay, WA 98061 Location Address: 10255 NE Valley Rd, Bainbridge Is., WA Phone # 206-842-5641 Fax # 206-842-0316 www.bainbridgewa.gov email: court@bainbridgewa.gov</p>
<p>CITY OF BAINBRIDGE ISLAND, Plaintiff, vs. _____ Defendant/Petitioner</p>	<p>NO.</p> <p>ORDER APPROVING TREATMENT PLAN, SETTING CONDITIONS AND ACCEPTING DEFENDANT FOR DEFERRED PROSECUTION</p>

THIS MATTER having come on for hearing on the _____ day of _____, 20____; the defendant, appearing in person represented by _____; the plaintiff being represented by the City of Bainbridge Island Prosecuting Attorney; it appearing that the petitioner herein has filed a petition requesting consideration for deferred prosecution of a misdemeanor or gross misdemeanor; that the petitioner has earlier been referred to an approved treatment program or center for diagnostic investigation for evaluation, and the facility report, including findings and recommendations and commitment to treat has been furnished to the court; that the petitioner having examined said report and plan and having indicated acceptance thereof, and being in agreement to follow said plan in detail; that the petitioner having signed the "Petition for Deferred Prosecution, Stipulation of Petitioner, and Waiver of Rights" forms; and the court being fully advised in the premises now, therefore, makes the following:

I. FINDINGS

- A. The petitioner, on or about _____, was charged with the offense(s) of _____.
- B. The petitioner suffers from ALCOHOLISM, DRUG ADDICTION, MENTAL PROBLEMS and, if not treated, there is a high probability that similar misconduct will occur in the future.
- C. The petitioner has completed an evaluation and received a diagnosis, which is attached.
- D. Extensive and long-term treatment is required and available, and the petitioner agrees to enroll in, complete, and pay the costs of the treatment plan, which is attached. The court has approved the plan.
- E. The petitioner has stipulated to the admissibility of the facts as contained in the written police reports.
- F. The petitioner has acknowledged the admissibility and sufficiency of the stipulated facts in any criminal hearing or trial on the underlying offense(s) held subsequent to revocation of the order granting deferred prosecution.
- G. The statements of the petitioner were made knowingly and voluntarily.
- H. 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.

II. ORDER

- A. A deferred prosecution program for alcoholism shall be for a two-year period, and shall include, but not be limited to, all the recommendations contained in the evaluation, which is attached, and the following requirements:
 - (1) The petitioner shall not possess or consume any alcohol, marijuana, and all other non-prescribed drugs, unless permitted by the treatment provider in writing;

- (2) Participation in an intensive inpatient or intensive outpatient program in a state-approved alcoholism treatment program;
 - (3) Participation in a minimum of two meetings per week of an alcoholism self-help recovery support group, as determined by the assessing agency, for the duration of the treatment program;
 - (4) Participation in an alcoholism self-help recovery support group, as determined by the assessing agency, from the date of court approval of the plan to entry into intensive treatment;
 - (5) Not less than weekly approved outpatient counseling, group or individual, for a minimum of six months following the intensive phase of treatment;
 - (6) Not less than monthly outpatient contact, group or individual, for the remainder of the two-year deferred prosecution period;
 - (7) The decision to include the use of prescribed drugs, including disulfiram, as a condition of treatment shall be reserved to the treating facility and the petitioner's physician;
 - (8) All treatment within the purview of this section shall occur within or be approved by a state-approved alcoholism treatment program as described in chapter 70.96A RCW.
- B. A deferred prosecution for mental health problems shall be for a 2 year period and shall include all recommendations of the mental health evaluation.
 - C. The petitioner shall attend a DUI victims' panel.
 - D. The petitioner's compliance with this court order shall be monitored through Bainbridge Island Municipal Court at the above listed contact information. The period of this monitoring will be for the period of time required to complete the two (2) year program, and for an additional three (3) year period after completion of the program.
 - E. The petitioner shall submit to a breath test, urinalysis, or blood test at the petitioner's expense when requested by the court, the probation services staff, law enforcement officer or treatment staff.
 - F. The petitioner shall immediately notify the court and the compliance monitor about any changes in address, phone number and living location, any non-compliance or change in the attached treatment program, any violations of this order, and any criminal law violations or arrests.
 - G. The petitioner shall pay a \$750.00 monitoring fee, a \$250.00 administrative cost and, in the case of a criminal traffic offense, an additional \$200.00 BAC fee as required by the State of Washington together with any previously assessed cost. These fees and costs shall be paid in full within 60 days or the defendant must set up a time pay agreement with Signal Credit (1-800-874-1948) within 60 days. Fees must be paid in full for successful completion of a deferred prosecution.
 - H. The petitioner shall not commit any violations of criminal laws.
 - I. 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 that established by RCW 46.29.490. The petitioner shall file written proof of liability insurance at the time of the signing of this order, and in the absence of such written proof, the petitioner shall not operate any motor vehicle.
 - J. If the wrongful conduct alleged in the petition is the result of or caused by alcohol dependency, and the finding above is that the defendant suffers from alcoholism, then the defendant shall cause to have installed an ignition interlock device pursuant to RCW 46.20.720, which shall be used for a period not less than the period provided for in RCW 46.20.720(3)(a),(b) and (c), and subject to certification from the ignition interlock device vendor pursuant to RCW 46.20.720(4).
 - K. In the event the petitioner has not given the court a complete and accurate account of all alcohol related driving arrests and dispositions, including deferred prosecution or in-house deferred, or injuries or death resulting from any alcohol or drug driving related arrest, a hearing may be held to determine why the petitioner should not be removed from

deferred prosecution status, as herein granted, and arraigned and prosecuted for the misdemeanor or gross misdemeanor charges.

- L. In the event the petitioner should fail or neglect to carry out or fulfill the terms and conditions of this order or the attached treatment program, a hearing shall be held to determine why the petitioner should not be removed from deferred prosecution status, as herein granted, and arraigned and prosecuted for the misdemeanor or gross misdemeanor charges pursuant to RCW 10.05.
- M. The court clerk shall notify the Department of Licensing of this order accepting the petitioner for deferred prosecution.
- N. Upon written proof of successful completion with all the terms of the court order and treatment plan, the clerk shall note this matter on the calendar for dismissal which shall be 36 months after filing proof of the completion of treatment.
- O. The petitioner shall:

Pay any emergency response restitution as ordered by the court.
 Pay restitution in the amount of \$ _____ for _____
 _____ through Bainbridge Island Municipal Court due
 within 60 days of date on this order unless payment plan is arranged through Signal Credit.

P. The petitioner shall personally appear in court for review of this matter on the dates and times as indicated below and on the Order of Release entered herein and as the Court may order.

Q. _____

FUTURE COURT DATES:

REVIEW DATE:	_____	9:30 AM
2 YEAR REVIEW DATE:	_____	9:30 AM
5 YEAR REVIEW DATE:	_____	9:30 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: _____