

APPENDIX TO LCrR 4.5

FORM 2

DEFERRED PROSECUTION FINDINGS OF FACT, CONCLUSIONS OF LAW & ORDER

Lower Kittitas County District Court  
State of Washington

[ ] State of Washington,	)	
[ ] City of Ellensburg,	)	
Plaintiff,	)	No.
	)	Deferred Prosecution
vs.	)	Findings of Fact, Conclusions of
	)	Law & Order
_____,	)	
Defendant.	)	
_____	)	

This matter coming before the court on the defendant’s Petition for Deferred Prosecution, and the court having considered the Petition, evaluation and treatment plan filed by the defendant, and the arguments of counsel, now makes the following findings of fact:

**I. Findings of Fact**

1. The defendant was evaluated by an approved alcoholism treatment facility or an approved drug treatment center; said agency’s evaluation meets the requirements of RCW 10.05.040 and is attached to this Order. A certified alcoholism treatment facility or drug treatment center has prepared a treatment plan meeting the requirements of RCW 10.05.150 and has committed to provide treatment. Said treatment plan and commitment to treatment is attached to this Order, and incorporated by reference herein.
2. The defendant has agreed to pay, or arranged for the payment of, the costs of treatment.
3. The defendant has agreed to complete the two-year treatment program set forth in the treatment plan attached to this Order and to follow the other conditions of the court’s Order.
4. The defendant has been advised of the following rights and has knowingly and voluntarily waived each of them:
  - (a) The right to a jury trial;
  - (b) The right to a speedy trial;
  - (c) The right to present evidence in his or her defense;
  - (d) The right to hear and question all witnesses who testify against the defendant;
  - (e) The right to compel witnesses to appear and testify on behalf of the defendant at no cost to the defendant;
  - (f) The right to testify.
5. The defendant has stipulated to the admissibility and sufficiency of the facts contained in the written police reports and understands these facts will be considered by the court in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution. The defendant has agreed that the facts contained in the stipulated police reports are

sufficient to allow the court to find the petitioner guilty, beyond a reasonable doubt, of the charged offenses.

6. The defendant has agreed, and the court finds, that any statements made by the defendant contained in the stipulated police reports were made knowingly and voluntarily.
7. If the charge is a violation of RCW Title 46 or similar municipal ordinance, the defendant has affirmed, and the court finds, that the defendant has not previously participated in a prior deferred prosecution program for a violation of RCW Title 46 or any similar municipal ordinance.

From the forgoing Findings of Fact, the court makes the following conclusions of law:

### **II Conclusions of Law**

1. The court has jurisdiction over the subject matter and petitioner in this case.
2. The petition meets the requirements of RCW 10.05.020
3. The diagnostic evaluation and treatment plan met the requirements of RCW 10.05.040, RCW 10.05.050 and RCW 10.05.150.
4. The Petition was made freely, voluntarily and knowingly.

### **III Order**

**Based on the foregoing Findings of Fact and Conclusions of Law, the court hereby grants the Petition for Deferred Prosecution and allows the defendant to enter into a deferred prosecution program. The defendant shall remain under the jurisdiction of the court and the supervision of Kittitas County Probation Services during the two year treatment plan, and for three years after the court receives proof of successful completion of the two-year treatment program, but not less than five years from the date of this Order. The defendant shall, while under the court's jurisdiction, comply with the following conditions:**

1. The defendant shall fully comply with and complete the two-year treatment program attached to this Order and incorporated by reference in Paragraph 2 of the court's Findings. In the event there are any inconsistencies between this order and the attached treatment plan, the terms and conditions set forth in this order shall be controlling.
2. The defendant shall pay, or arrange for payment of, the costs of the treatment program.
3. The defendant shall maintain total abstinence from alcohol and all other non-prescribed mind altering drugs.
4. The defendant shall not commit any crimes. The definition of "commit" includes, but is not limited to, any criminal charge resolved by a stay of proceedings, a stipulated order of continuance, or any other agreement which consists of a continuance with conditions, even if the ultimate disposition of the criminal charge is a dismissal, amendment of charge, or a finding of not guilty.
5. The defendant shall not refuse to submit to a breath or blood test if a police officer has reasonable grounds to believe that the defendant is driving or is in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.
6. The defendant shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance in an amount not less than that established by RCW 46.29.490.

7. The defendant shall immediately report to Probation Services, and continue to report in the future as directed by Probation Services.
8. The defendant shall pay \$35 per month for probation supervision. The court may, after the successful completion of the two year treatment program, reduce the level of supervision (and associated probation fees) required for the remainder of the period of supervision.
8. The defendant shall not change treatment agencies without written permission of the court.
9. The treatment facility shall file with Kittitas County Probation Services **monthly** treatment status/compliance reports. Those reports shall be sent to:

Kittitas County Probation Services  
507 Nanum Street  
Ellensburg, Washington 98926

10. The defendant shall provide **in writing** to the court and Probation Services any change in mailing address.
11. The defendant shall not drive any motor vehicle unless the motor vehicle is equipped with a functioning ignition interlock calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. This restriction is effective  immediately;  as of \_\_\_/\_\_\_/\_\_\_;  after the completion of any suspension, revocation, or denial of driving privileges. The period of time of this restriction shall be for  one year  five years  ten years.
12. The defendant  shall  shall not be required to pay a \$150 administrative fee.
13. The defendant  shall  shall not be required to pay a \$125 breath test fee.
14.  The defendant  shall  shall not be required to reimburse Kittitas County for the cost of his/her court appointed attorney in the amount of \$\_\_\_\_\_.
15.  The defendant shall pay restitution in the amount of \$\_\_\_\_\_.  A restitution hearing shall be held on \_\_\_/\_\_\_/20\_\_ to determine what amount of restitution should be paid by the defendant
16. The defendant shall start the two year deferred prosecution treatment program on or before: \_\_\_/\_\_\_/20\_\_ .  **Prior to entry into the two year intensive treatment program, the defendant shall attend a minimum of three (3) self-help recovery support group meetings per week, and provide proof of attendance to Probation Services. The defendant shall also attend and fully participate in any pre-treatment program available from his or her treatment agency. The defendant shall report to Probation Services as directed.**
17.  The defendant shall attend a DUI victim's panel in Kittitas County on: \_\_\_/\_\_\_/20\_\_.  The defendant shall attend a DUI victim's panel within 90 days.  The defendant shall attend a Spanish language DUI victim's panel as directed by Probation Services.
18. This matter shall be set for review at any time as may be deemed appropriate by the court. In the event the defendant fails or neglects to undertake, complete or comply with any term or condition of

this Order, the court, upon receiving notice of such failure, neglect, or violation, shall hold a hearing to determine whether the sufficient cause exists to remove the defendant from the deferred prosecution program. In the event the defendant is convicted of a similar offense, the court shall remove the defendant from the deferred prosecution program.

19. In the event the court finds cause to revoke the deferred prosecution, the court (sitting without a jury) will consider the stipulated police reports, including any statements made by the defendant, and determine whether the stipulated evidence supports the charge(s) beyond a reasonable doubt

20. In the event the defendant complies with the conditions of this Order the court shall, three years after receiving proof of successful completion of the two-year treatment program, but not before five years following entry of this Order, dismiss the charges pending against the defendant.

21. Other: \_\_\_\_\_  
\_\_\_\_\_

Dated \_\_\_\_\_ / \_\_\_\_\_ /20 \_\_\_\_\_

\_\_\_\_\_  
Judge/Court Commissioner

Presented by:

Copy received; approved as to form:

\_\_\_\_\_  
Attorney for Defendant                      WSBA #

\_\_\_\_\_  
Prosecuting Authority                      WSBA #

Copy received; terms and conditions of Order accepted by:

\_\_\_\_\_  
Defendant

**Attached to this Order are:**

- A. Alcohol/drug evaluation, treatment plan and commitment to provide treatment.**
- B. Police reports.**