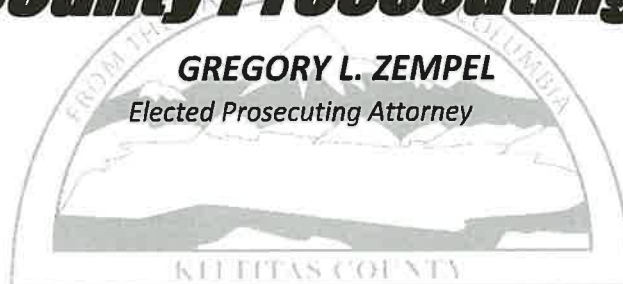


# ***Kittitas County Prosecuting Attorney***

## **KITTITAS COUNTY COURTHOUSE**

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## **CIVIL DIVISION**

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## **FIRST OFFENSE MISDEMEANOR PLEA GUIDELINES**

**(As of MARCH 1, 2019)**

The following assumes no criminal history and no aggravating factors such as victims, collisions, and treatment of officers. All listed fines do not include additional costs and assessments except the mandatory minimums for DUI. All Stay of Proceedings contain a condition requiring no new criminal law violations. *The following guidelines are the Prosecutor's direction to his deputies as suggested minimums to keep in mind when entering into plea agreements. Prosecutorial discretion is fully retained. These guidelines create no rights or entitlements for defendants or the general public, and create no duties or liabilities upon the deputy prosecutors if offers or resolutions in specific cases vary from these guidelines.*

## **ALCOHOL-RELATED**

**DUI or Physical Control – RCW 46.61.502/46.61.504 Mandatory Minimums:** <http://1.usa.gov/17ICvqv>

**No Stay of Proceedings (SOP) on DUI/Physical Control.** Terms of probation shall always require alcohol/drug evaluation/treatment, Victim Impact Panel, no new crimes, no refusals or impaired driving, no driving without license or insurance.

<b>BrAC/BAC/ng at arrest</b>	<b>Offer to plead to</b>	<b>Jail</b>	<b>Probation</b>
.109/3ng and below, Valid prescriptions	Negligent Driving 1 <sup>st</sup> Degree	90/90	12 months active
.110-.129 3.1-4.9ng	Reckless Driving	364/364	24 months active
.130-.159 5+ng	DUI below .15	364/363	24 months active
.160 and above	DUI above .15 Mandatory minimums IID required	364/362	60 months probation
Refusal, drugs, meds w/o prescription	DUI Refusal Mandatory minimums	364/362	60 months probation

**Driver Under 21 Consuming Alcohol or Marijuana – RCW 46.61.503**

**24-month SOP with active probation;** upon completion, amend to Negligent Driving 2<sup>nd</sup> degree infraction. Terms of probation shall require 40 hours community service, alcohol/drug evaluation/treatment, abstinence until 21 years old, VIP, no new crimes, no refusals or impaired driving, no driving without license or insurance.

**No Ignition Interlock Device – RCW 46.20.740**

**No SOP.** 364/359 served as jail or work crew, 12 months Record Check Only (RCO) probation.

**Minor in Possession/Consumption – RCW 66.44.270**

12-month SOP with active probation, 24 Community Service Hours (CSH), and alcohol/drug evaluation/treatment (PRIME for Life only counts as ADIS, not evaluation). Probation can be converted to RCO depending upon evaluation and completion of other requirements. Upon completion: Dismissal. Any misstep on SOP: revoke and sentence to 90/90, \$250 fine, 12 months active probation requiring evaluation and treatment. If revoked because of new conviction, add more jail or other conditions.

**Furnishing/Supplying Liquor to a Minor – RCW 66.44.270**

**Liquor Control Board sting cases (server to minor):** 12-month SOP, an LCB Responsible Liquor and Tobacco Sales class and 24 CSH, both completed within 90 days of SOP entry. Upon completion: Dismissal.

**Other cases:** 12-month SOP, 24 community service hours if completed within 90 days of SOP entry, 12 months RCO probation. If person furnishing was also drinking, add alcohol/drug evaluation/treatment and active probation.

**ASSAULT/VIOLATION OF NO CONTACT ORDER****Assault 4<sup>th</sup> Degree – RCW 9A.36.041 – Always determined on a case-by-case basis**

SOPs are acceptable in cases that are first-time offenders with little or no injury. If SOP, 24 months probation (the first 12 active; after that at Probation's discretion). Depending on the facts, evaluations for substance abuse or mental health may be appropriate. Probation shall always require a DV Batterer's evaluation and follow-up treatment.

Any misstep, revoke and sentence to 5 days jail (364/359), which can be converted to alternatives at the discretion of the deputy prosecuting attorney, and at least 12 months active probation with DV evaluation and treatment. Probation for DV crimes can be ordered for up to 60 months pursuant to RCW 35.20.255.

**Violation of No Contact Order (of any type)**

**Domestic Violence cases 1<sup>st</sup> offense:** 364/359 jail/work crew, 24 months RCO probation.

**Domestic Violence cases 2<sup>nd</sup> offense:** 364/334 jail, no alternatives, 24 months RCO probation.

**Non-Domestic Violence cases 1<sup>st</sup> offense:** 364/359 jail/CSH/work crew, 24 months RCO probation; possible SOP depending on circumstances.

**Non-Domestic Violence cases 2<sup>nd</sup> offense:** 364/349 jail, 24 months RCO probation.

**DRIVING (NON-ALCOHOL/DRUGS)****Reckless Driving – RCW 46.61.500**

**Speed alone:** 24-month SOP to a dismissal, 40 CSH, 8-hour in-person defensive driving course (not online), RCO probation.

**Other factors:** No set conditions.

**DWLS 1<sup>st</sup> Degree – RCW 46.20.342(1)(a) (two major moving violations)**

**Statutory mandatory minimum:** 10 days jail (364/354).

**If defendant gets license back:** amend to DWLS 3, 90/80, 12 months RCO probation, no driving w/o valid license/insurance, no new criminal law violations.

**DWLS 2<sup>nd</sup> Degree – RCW 46.20.342(1)(b) (drove while under suspension for reasons other than DWLS 3)**

**No DWLS history:** amend to DWLS 3, 90/85 jail/work crew, 12 months RCO probation, no driving w/o valid license/insurance, no new criminal law violations.

**With DWLS history:** 364/359 jail, \$250 fine, 24 months RCO probation, no driving w/o valid license/insurance, no new criminal law violations.

**If defendant gets license back:** amend to DWLS 3, 90/90, 12 months RCO probation, no driving w/o valid license/insurance, no new criminal law violations.

**DWLS 3<sup>rd</sup> Degree – RCW 46.20.342(1)(c) (suspended for unpaid tickets and/or child support)**

**No DWLS history:** 90/87 with 24 CSH alternative if completed w/in 90 days of sentencing, 12 months RCO probation, no driving w/o valid license/insurance, no new criminal law violations. If defendant gets license back, amend to No Valid Operator License infraction.

**With DWLS history:** 90/87 alternatives available depending on history, 12 months RCO probation, no driving w/o valid license/insurance, no new criminal law violations. If defendant gets license back, prosecutor has discretion to amend to No Valid Operator License infraction, depending on DWLS history.

**DEPARTMENT OF FISH AND WILDLIFE CRIMES**

Any DFW-related firearm forfeiture is a civil forfeiture under RCW 77.15.070. It is the general policy of the Kittitas County Prosecutor's Office to defer to the civil forfeiture process for all firearm forfeitures.

**Unlawful Hunting Big Game 2<sup>nd</sup> Degree – RCW 77.15.410 - Civil Wildlife penalty applies: RCW 77.15.420(1)**

**No prior DFW violations of any type:** Amend to a hunting infraction RCW 77.15.160(2)(b), \$250 fine, plus any applicable civil wildlife penalty.

**One prior DFW violation:** 364/361 converted to 24 CSH w/in 90 days of sentencing, \$250 fine, 12 months RCO probation, plus any applicable civil wildlife penalty.

**More than one prior DFW violation:** additional jail and all other conditions.

**Unlawful Recreational Fishing 2<sup>nd</sup> Degree – RCW 77.15.380**

**No prior DFW violations of any type:** Amend to a fishing infraction RCW 77.15.160(1)(d)(i), \$250 fine.

**One prior DFW violation:** 364/361 converted to 24 CSH w/in 90 days of sentencing, \$250 fine, 12 months RCO probation.

**More than one prior DFW violation:** additional jail and all other conditions.

**Loaded Rifle or Shotgun in Vehicle/Shooting from the Roadway – RCW 77.15.460**

**No prior DFW violations of any type:** Amend to a hunting infraction RCW 77.15.160(6)(b), \$250 fine.

**One prior DFW violation:** 364/361 converted to 24 CSH w/in 90 days of sentencing, \$250 fine, 12 months RCO probation.

**More than one prior DFW violation:** additional jail and all other conditions.


**Unlawful Transportation of Fish or Wildlife / Failure to Tag Big Game – RCW 77.15.290**

**No prior DFW violations of any type:** Amend to a hunting infraction RCW 77.15.160(6)(b), \$250 fine.

**One prior DFW violation:** 364/361 converted to 24 CSH w/in 90 days of sentencing, \$250 fine, 12 months RCO probation.

**More than one prior DFW violation:** additional jail and all other conditions.

Approved March 1, 2019

  
Gregory L. Zempel  
Kittitas County Prosecuting Attorney