



DEFERRED PROSECUTION IN WASHINGTON STATE

A Brief History

1975 – THE BIRTH OF DEFERRED PROSECUTION

- Originally designed as a treatment alternative to incarceration
- Individuals charged with a misdemeanor or gross misdemeanor could petition the court to have prosecution deferred if they got treatment for an alcohol, drug, or mental “problem”
- Signed into law by Governor Evans on June 26, 1975.

1982 – TRAFFIC OFFENSE EXCEPTION AMENDMENT

- The first major effort to modify deferred prosecution, aimed at restricting use for traffic offenses
- Increased the role of the court as gatekeeper
- Compelled the court to exclude DP for all traffic related misdemeanors and gross misdemeanors unless all eligibility criteria were satisfied
- Limited traffic-related DP to one every five years

1985 – THE REVISION

- May 20, 1985 – Governor Gardner executed the most significant change to-date to the DP law
- Changes impacted perceived abuse of DP by individuals not in need of or not committed to treatment
- Provided specific standards for judges and prosecutors to use in carrying out the original intent of the statutes.

1985 – THE REVISION (CONTINUED)

- Changed eligibility from alcohol/drug “problem” to “alcoholism and drug addiction”
- Required stipulation of five key “findings of fact” as part of the court order
- Required petitioner to stipulate to the admissibility of evidence
- Required treatment providers to sign an agreement to provide treatment and to meet specific reporting requirements

1985 – THE REVISION (CONTINUED)

- Established detailed minimum treatment requirements and criteria for reporting breaches of treatment plan
- Required petitioners to present proof of two years of treatment for dismissal of charges
- Authorized court to order probation monitoring
- Specified the court record does not constitute a conviction for purposes of licensing



1991 – MONITORING FEES

- Authorized probation departments to charge petitioners a monitoring fee for probation supervision



1991 – PROBATIONARY LICENSE STATUS

- Provides for persons granted deferred prosecution to receive a probationary driver's license, good for five years from the date of issue



1998 – ONE PER LIFETIME

- Limited eligibility for deferred prosecution to only once in a lifetime, rather than allowing for renewed eligibility after five years

REDUCING RECIDIVISM

- Studies in 2006 and 2007 point to deferred prosecution as an effective tool to decrease recidivism.
- 2007 study indicates
 - 22.6% DUI recidivism rate for DP cases compared with 29.7% for the comparison group
 - A 35.5% overall recidivism rate (DUI, criminal traffic or alcohol-related offense) for DP cases compared with 52.0% for the comparison group
- The studies showed no decrease in recidivism with the increase in supervision length mandated by 1998 changes