



WASHINGTON  
COURTS

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TO: Judicial Community and Legal Community  
FROM: Merrie Gough, AOC Sr. Legal Analyst  
RE: 2012 AMENDMENTS TO CrR 4.2(g) GUILTY PLEAS

On June 7, 2012, the Washington State Supreme Court adopted amendments to the CrR 4.2(g) Statement of Defendant on Plea of Guilty to Non-Sex Offense and Statement of Defendant on Plea of Guilty to Sex Offense. The amendments become effective when they are published in the Official Advance Sheets, Washington Reports, 174 Wn.2d No.5. The anticipated publication date is July 24, 2012. The amendments are based upon

- Laws of 2012, Ch. 42, (ESHB 2302), driving under the influence - child in vehicle, effective July 7, 2012;
- Laws of 2012, ch. 183, (2SHB 2443), increasing accountability of persons who drive impaired, effective August 1, 2012;
- Laws of 2012, ch. 134, (ESHB 1983), prostitution and trafficking crimes – penalties, effective June 7. 2012.

The following table contains detailed descriptions of the changes:

**1. CrR 4.2(g), Statement of Defendant on Plea of Guilty to Non Sex Offense**

Laws of 2012, Ch. 42, §3 amends RCW 9.94A.533 by adding a new subsection (13):

(13) An additional 12 months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions. If the addition of a minor child enhancement increases the sentence so that it would exceed the

statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

To implement Laws of 2012, Ch. 42, §3, below the table in paragraph 6(a), add a new enhancement abbreviation:

“(P16) Passenger(s) under age 16.”

Also in paragraph 6, insert a new subparagraph 6(aa):

“(aa) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520, or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.”

Laws of 2012, ch. 183, §9 amends RCW 46.20.720(2) as follows:

“(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the court shall order any person convicted of a violation of RCW 46.61.502, or RCW 46.61.504, or an equivalent local ordinance to ~~apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have~~ comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.”

To implement this change, in paragraph 6(z), change the last sentence as follows:

“Following the period of suspension, revocation or denial, I must comply with the Department of Licensing ignition interlock device requirements.”

Laws of 2012, ch. 183, §9 also amends RCW 46.20.720 by adding a new subsection (6):

“(6) In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the person shall pay an additional fee of \$20 per month. Payments must be made directly to the ignition interlock company. The company shall remit the additional \$20 fee to the department, to be deposited into the ignition interlock device revolving account.”

To implement this change, in paragraph 6(z), add the following sentence to the end of the paragraph:

“...In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of \$20 per month.”

Laws of 2012, ch. 183, §6, amends RCW 38.52.430, regarding emergency response costs [for DUI, operating aircraft under the influence, use of a vessel under the influence, vehicular homicide (DUI) or vehicular assault (DUI)], as follows:

“The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied. Following a conviction of an offense listed in this section, and prior to sentencing, the prosecution may present to the court information setting forth the expenses incurred by the public agency for its emergency response to the incident. Upon a finding by the court that the expenses are reasonable, the court shall order the defendant to reimburse the public agency. The cost reimbursement shall be included in the sentencing order as an additional monetary obligation of the defendant and may not be substituted for any other fine or cost required or allowed by statute. The court may establish a payment schedule for the payment of the cost reimbursement, separate from any payment schedule imposed for other fines and costs.

In no event shall a person's liability under this section for the expense of an emergency response exceed \$2,500 for a particular incident.”

To implement Laws of 2012, ch. 183, §6, in paragraph 6, insert a new subparagraph 6(bb):

“(bb) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to \$2,500 per incident.”

Renumber the remaining subparagraphs in paragraph 6.

## 2. CrR 4.2(g), Statement of Defendant on Plea of Guilty to Sex Offense

To implement Laws of 2012, Ch. 42, §3, below the table in paragraph 6(a), add a new enhancement abbreviation:

“(P16) Passenger(s) under age 16.”

To implement Laws of 2012, ch. 134, §1, 3, and 4, change the first sentence in paragraph 6(e) as follows:

“...In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines, fees, assessments, or penalties that apply to my case.....”

Because the defendant pleading guilty to a sex offense or a kidnapping offense involving a minor could also be pleading guilty to a felony offense involving driving under the influence of intoxicating liquor, or any drug, add DUI-related paragraphs to the Statement of Defendant of Plea of Guilty to Sex Offense. Insert the following new subparagraph 6(u):

“(u) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation, or denial, I must comply with the Department of Licensing ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of \$20 per month.”

New subparagraph 6(u) is the same as the Statement of Defendant on Plea of Guilty to Non-Sex Offense, paragraph 6(z), and contains the new text as indicated in section 1, above.

To implement Laws of 2012, Ch. 42, §3, referenced above, in paragraph 6, insert a new subparagraph 6(v):

“(v) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child

passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.”

To implement Laws of 2012, ch. 183, §6, in paragraph 6, insert a new subparagraph 6(w):

“(w) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to \$2,500 per incident.”

Renumber the remaining subparagraphs in paragraph 6.

Laws of 2012, ch. 136, §2, updates RCW 9A.88.130(1)(a) by deleting “patronizing a juvenile prostitute” and replacing it with “commercial sexual abuse of a minor.”

It also adds a new mandatory condition of sentence for patronizing a prostitute (9A.88.110) or commercial sexual abuse of a minor (9.68A.100), the latter crime is a B felony:

“(c) Fulfill the terms of a program, if a first-time offender, designated by the sentencing court, designed to educate offenders about the negative costs of prostitution.”

To implement Laws of 2012, ch. 136, §2, in paragraph 6, insert the following new subparagraph 6(bb):

“(bb) If I am pleading guilty to patronizing a prostitute or commercial sexual abuse of a minor, and this is my first offense, the court will order me to attend a program designed to educate me about the negative costs of prostitution.”