

July 19, 2019

**TO**: Judicial and Legal Communities

**FROM**: Merrie Gough, AOC Sr. Legal Analyst

**RE**: 2019 Amendments to the JuCR 7.7 Guilty Plea Form

On July 10, 2019, the Washington State Supreme Court adopted amendments to:

|  |  |
| --- | --- |
| JuCR 7.7 | Statement on Plea of Guilty |

The amendments become effective when they are published in the Official Advance Sheets, Washington Reports, \*\*\* Wn.2d No. \*\*\*. The anticipated publication date is July 30, 2019.

The amendments implement recommended changes and:

* Laws of 2019, ch. 263 (E2SHB 1517) relating to Domestic Violence
* Laws of 2019, ch. 322 (E2SHB 1646) relating to confinement in juvenile rehabilitation facilities
* Laws of 2019, ch. 248 (SB 5205) § 2 amending RCW 9.41.040
* Laws of 2019, ch. 443 (SHB 1326) related to Collecting DNA Samples under RCW 43.43.754
* 21 USC § 862 relating to ineligibility drug traffickers and drug possessors for federal benefits, and exceptions to that rule

The following table contains detailed descriptions of the proposed amendments:

|  |
| --- |
| **JuCR 7.7 – Statement on Plea of Guilty** |
| Laws of 2019, ch. 263, §§ 203 and 204 amend the definition for “Domestic Violence” in RCW 10.99.010 and RCW 26.05.010, respectively. Domestic Violence relationships were classified as “Intimate partners,” RCW 26.50.010(7) and “Family or household members,” RCW 26.50.010(6). Additionally, under RCW 9.94A.525(21)(c), certain juvenile offenses in which domestic violence was pleaded and proven may count as a prior offense for later felony offender scoring.  To identify cases in which domestic violence was pleaded and proven and to identify when a domestic violence relationship is “intimate partner” or “family or household member,” the following check boxes are added to the end of paragraph 4:  “ Count(s) \_\_\_\_\_\_\_\_\_ was(were) committed against a family or household member (RCW 26.50.010(6)).  Count(s) \_\_\_\_\_\_\_\_\_ was(were) committed against an intimate partner (RCW 26.50.010(7))”  To implement Laws of 2019, ch. 322, § 3, in paragraph 7, the second check box option title is changed from “Rehabilitation Administration (RA)” to “Department of Children, Youth, and Families (DCYF).”  In paragraph 7, in the table after the second check box option for “Department of Children, Youth, and Families (DCYF) Commitment,” the title of the middle column is changed and the check box for the A++ term of 129 – 260 weeks is moved to the end of each list of ranges as follows:  “WEEKS AT DCYF REHABILITATION ~~ADMINISTRATION (RA)~~ FACILITY  15 - 36  30 - 40  52 - 65  80 - 100  103 - 129   ~~129 – 260~~  180 - Age 21  129 – 260  15 - 36  30 - 40  52 - 65  80 - 100  103 - 129   ~~129 – 260~~  180 - Age 21  129 – 260  15 - 36  30 - 40  52 - 65  80 - 100  103 - 129   ~~129 – 260~~   180 - Age 21  129 – 260”  In the paragraph after the table, “Rehabilitation Administration (RA) facility” is changed to “DCYF rehabilitation facility.”  Laws of 2019, ch. 248, § 2 amended RCW 9.41.040 by adding a new subsection to  RCW 9.41.040(2)(a). The new subsection caused the remaining subsections to be renumbered. The subsection that states it is unlawful for a person under 18 years to own, possess, or have in his/her control any firearm was changed to “RCW 9.41.040(2)(a)(vi).”  To implement this change, the first section in paragraph 12[A] is changed as follows:  “**Over 13 & Alcohol, Drugs, Unlawful Possession of a Firearm (UPFA) <18, or Armed with Firearm (not first offense)**:  (1) Ifthe court finds me guilty of one of the following offenses and I was 13 years or older at the time I committed the offense: alcohol under chapter 66.44 RCW; violation of the Uniform Controlled Substances Act (VUCSA) under chapter 69.50 RCW; legend drug under chapter 69.41 RCW; imitation drugs under chapter 69.52 RCW; UPFA <18 under RCW 9.41.040(2)(a)(vi); and/or an offense while armed with a firearm under RCW 13.40.196; AND (2) I have a prior offense for the same offense.  See RCW 13.40.265.”  Also, in paragraph 12[A], after the third heading “Certain Motor Vehicle Offenses,” the “—“ is changed to a colon to be consistent with the other sub-paragraphs.  The update to RCW 9.41.040 in Laws of 2019, ch. 248, § 2 is also made to paragraph 12[J][i] as follows:  “[i] Minimum 10 Days for Possession under Age 18: I understand that the offense I am pleading guilty to includes possession of a firearm in violation of RCW 9.41.040(2)(a)~~(iv)~~(vi), and pursuant to RCW 13.40.193, the judge will impose a mandatory minimum disposition of 10 days of confinement, which must be served in total confinement without possibility of release until a minimum of 10 days has been served.”  Laws of 2019, ch. 443, § 3 amends RCW 43.43.745 by adding “Indecent exposure” to the list of crimes that requires DNA testing. To implement this change, paragraph 12[C] is updated as follows:  “DNA TESTING: Pursuant to RCW 43.43.754, if this crime involves a felony, or an offense which requires sex or kidnapping offender registration, or any of the following offenses: stalking, harassment, communication with a minor for immoral purposes, assault in the fourth degree where domestic violence was pleaded and proved, assault in the fourth degree with sexual motivation, custodial sexual misconduct in the second degree, failure to register as a sex or kidnapping offender, patronizing a prostitute, sexual misconduct with a minor in the second degree, indecent exposure, or violation of a sexual assault protection order, I will be required to have a biological sample collected for purposes of DNA identification analysis. I will be required to pay a $100 DNA fee. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense.”  21 USC § 862 denies federal benefits to drug traffickers and drug possessors. However, 21 USC § 862(d) excludes welfare and other similar benefits from the definition of “federal benefits.” Washington State food stamp rules must conform to federal laws. RCW 74.04.510. A conviction for a felony, including drug trafficking and drug possession, does not make a person ineligible for food stamps. WAC 388-442-0010.  Paragraph 12[H] is deleted.  ~~[H] FEDERAL BENEFITS: I understand that if I am pleading guilty to a felony drug offense, my eligibility for state and federal food stamps and welfare will be affected.   21 U.S.C. § 862a.~~  In paragraph 12, renumber the remaining sub-paragraphs.  In paragraph 16, add the following title to the beginning of the paragraph “***Statement of Respondent.***”  Below the lines for the statement add the following check box options:  “ The crime(s) was (were) committed against family or household member(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name(s)) (RCW 26.50.010(6)).  The crime(s) was (were) committed against intimate partner(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name(s)). (RCW 26.50.010(7)).”  Change the check box that begins with “Instead of making a statement…” as follows:  “ ***No statement made***. Instead of making a statement, I agree that the judge may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea, including a determination of my relationship to each victim as:  family or household member(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name(s)) (RCW 26.50.010(6)).  intimate partner(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name(s)). (RCW 26.50.010(7)).” |