

June 7, 2004

TO: Judicial Community and Legal Community

FROM: Merrie Gough, Legal Analyst

SUBJECT: 2004 LEGISLATIVE CHANGES TO THE MISDEMEANOR  
JUDGMENT AND SENTENCING FORMS

The following table contains a summary of changes to the Misdemeanor Judgment and Sentencing forms. The changes are based upon 2004 Session Laws and approved recommended changes:

1.	CrRLJ 03.0400	<p><b>Rights, Conditions and Warnings (DUI/Physical Control)</b></p> <p>Laws of 2004, ch. 95 (SHB 2660) deletes “or other biological or technical device” in reference to ignition interlock devices. For example, Laws of 2004, ch. 95 (SHB 2660) § 22 modifies RCW 46.20.720 as follows:</p> <p style="padding-left: 40px;">(1) “.....may drive only a vehicle equipped with a functioning ignition interlock <del>or other biological or technical device.....</del>”</p> <p>To implement this change:</p> <p>In paragraph 5. IGNITION INTERLOCK, delete the first sentence “All references to an ignition interlock device also include other biological or technical devices.”</p> <p>In Paragraph 8. RESTITUTION, change the first as follows:</p> <p style="padding-left: 40px;">Restitution must be paid <del>through the court by personal or cashier’s check made payable to the party named in the restitution section</del> <u>as follows:</u></p> <p style="text-align: center;">_____.</p> <p>The “paid as follows” language gives the court more flexibility for writing in local options.</p>
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		<p>In paragraph 9. FAILURE TO MEET CONDITIONS, change the first sentence as follows:</p> <p>Failure to meet any of the conditions checked off on the Judgment and Sentence or any of the conditions numbered 1 through 8 above, <u>to appear as scheduled, and/or to pay financial obligations as scheduled</u> may result in <u>the filing of additional criminal charges, the issuance of a bench warrant for your immediate arrest, and/or the revocation of your <del>deferred sentence or</del> suspended sentence, and the imposition of warrant costs, the suspension of your driver's license and the referral of your fines to a collection agency.</u></p> <p>In the second sentence, change "...imposition of that sentence and fine..." to "...imposition of the maximum sentence and fine...."</p> <p>In the last sentence, delete "deferred or."</p>
2.	CrRLJ 03.0410	<p><b>Rights, Conditions and Warnings</b></p> <p>In Paragraph 7. RESTITUTION, change the first as follows:</p> <p>Restitution must be paid <del>through the court by personal or cashier's check made payable to the party named in the restitution section as follows:</del> _____.</p> <p>The "paid as follows" language gives the court more flexibility for writing in local options.</p> <p>In paragraph 8. FAILURE TO MEET CONDITIONS, change the first sentence as follows:</p> <p>Failure to meet any of the conditions checked off on the Judgment and Sentence or any of the conditions numbered 1 through 7 above, <u>to appear as scheduled, and/or to pay financial obligations as scheduled</u> may result in <u>the filing</u></p>

		<p><u>of additional criminal charges, the issuance of a bench warrant for your immediate arrest, and/or the revocation of your deferred sentence or suspended sentence, and the imposition of warrant costs, the suspension of your driver's license and the referral of your fines to a collection agency.</u></p> <p>In the second sentence, change "...imposition of that sentence and fine..." to "...imposition of the maximum sentence and fine..."</p>
3.	CrRLJ 07.0300	<p><b>Findings of Fact and Conclusions of Law</b></p> <p>Delete this form.</p>
4.	CrRLJ 07.0100	<p><b>Judgment and Sentence (DUIJS)</b></p> <p>This form was substantially revised and restructured. In addition to the revisions and restructuring, the following new information was added to the form:</p> <p>In the right side of the caption, the following check boxes were added below the existing check boxes for count 1:</p> <p style="text-align: center;"> <input type="checkbox"/> Drug related    <input type="checkbox"/> Non-alcohol related  <input type="checkbox"/> Passenger under age 16         </p> <p>In the first paragraph, delete:</p> <p style="text-align: center;"><del>“[and the court]... finds the defendant's criminal history and driving record are as shown on the attached Certificate of Defendant's Criminal History and Abstract of Driving Record...”</del></p> <p>and replace it with:</p> <p style="text-align: center;"><u>“[and the court] verified the defendant's criminal history and driving record and made findings orally or as follows: _____”</u></p> <p>The Abstract of Driving Record and the JIS Criminal History Screen may contain confidential information. To protect the confidential information, references to</p>

	<p>attaching the records have been deleted. Courts that use the Certificate of Defendant's Criminal History, may still attach the certificate.</p> <p>On page 2, the heading CONDITIONS OF DEFERRED SENTENCE, PROBATION, AND SUSPENDED JAIL TIME was replaced with two headings "Mandatory Conditions of Sentence" and "Additional Conditions of Sentence."</p> <p>The following existing paragraphs were placed with pre-checked boxes under the heading "Mandatory Conditions of Sentence:"</p> <ul style="list-style-type: none"><li><input checked="" type="checkbox"/> (a) The defendant shall not drive a motor vehicle without a valid license and proof of insurance. (b) The defendant shall not drive a motor vehicle with an alcohol concentration of .08 or more within two hours after driving. (c) The defendant shall submit to a breath or blood alcohol test upon the reasonable request of a law enforcement officer. If you violate (a), <del>and (b)</del>, or <del>(a) and (c)</del>, <u>you will be sentenced to a minimum the court shall order you confined for no less than 30 days in jail, and your driving privilege will be suspended for 30 days.</u></li><li><input checked="" type="checkbox"/> No criminal <u>violations of law</u> or alcohol related infractions.</li></ul> <p>The remaining existing check box options were placed under the heading "Additional Conditions of Sentence".</p> <p>Laws of 2004, ch. 95 (SHB 2660) modified ignition interlock requirements. Several changes implementing Laws of 2004, ch. 95 have been made to the judgment and sentence form:</p> <p>In the first check box option copied above, the changes shown in strike out and underline formatting are based upon RCW 46.61.5055(9)(b) and (c) as amended by Laws of 2004, ch. 95 (SHB 2660) § 13 (page 30).</p> <p>Laws of 2004, ch. 95 § § 11 and 13 state that all mandatory ignition interlock requirements, with one exception, are imposed by the Department of Licensing.</p>
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		<p>Courts must still order the mandatory ignition interlock device requirements when a passenger in the vehicle is under age 16 (RCW 46.61.5055(4)); and, the court may still impose discretionary ignition interlock requirements under RCW 46.20.720 and RCW 46.61.5055(9). The courts are also required to set the calibration level and duration of any court imposed ignition interlock requirement. To implement these changes, the following new provisions are added to the judgment and sentence:</p> <p>Under the heading Mandatory Conditions of Sentence, add:</p> <ul style="list-style-type: none"><li><input checked="" type="checkbox"/> Comply with mandatory ignition interlock device requirements as imposed by the Department of Licensing.</li><li><input type="checkbox"/> Comply with mandatory ignition interlock device requirements as imposed by the court for _____ years _____ days. (RCW 46.61.5055(4))</li><li><input type="checkbox"/> Unless otherwise stated, the calibration level for any ignition interlock requirement imposed under this order shall be .025% <input type="checkbox"/> ____.</li></ul> <p>Under the heading “Additional Conditions of Sentence” make the following changes were made to the ignition interlock requirements:</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Comply with discretionary ignition interlock device requirements (this order shall not apply to vehicles owned by defendant’s employer and driven as a requirement of employment during working hours):<ul style="list-style-type: none"><li><input type="checkbox"/> For a period of _____ years _____ days, following the period of driver’s license suspension, <del>or</del> revocation <u>or denial</u>, drive only a motor vehicle equipped with a functioning <u>ignition interlock device</u>.</li><li><input type="checkbox"/> From _____ [date] to _____ [date], <del>Effective immediately, and until the period of license suspension/revocation has elapsed (if applicable), or until _____ [date], do</del> not drive any motor vehicle unless it is equipped</li></ul></li></ul>
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		<p>with an ignition interlock device (this DOES NOT authorize you to drive without a valid license).</p> <p><input type="checkbox"/> Unless otherwise stated, the calibration level for any ignition interlock requirement imposed under this order shall be .025% <input type="checkbox"/> ____.</p>
5.	CrRLJ 07.0110	<p><b>Judgment and Sentence</b></p> <p>The Judgment and Sentence was substantially revised and restructured. In addition to the revisions and restructuring, the following new information was added to the form:</p> <p>Laws of 2004, ch. 15 § 2 gives the courts the discretion to impose a domestic violence assessment of up to \$100 when a defendant is convicted of an offense involving domestic violence.</p> <p>To implement Laws of 2004, ch. 15 § 2, the following new check box is added to the FINE section:</p> <p><input type="checkbox"/> plus domestic violence assessment \$_____</p>
6.	CrRLJ 07.0500	<p><b>Standing Order of Requirements for Defendants Prohibited from Operating <del>any a</del> Vehicle that is not Equipped with a Functioning Ignition Interlock <del>Breath Alcohol</del> Device <u>Under RCW 64.20.720(1) OR 46.61.5055(4), (9)</u></b></p> <p>The modifications to the form title and the changes described below are based upon Laws of 2004, ch. 95:</p> <p>In the first paragraph, the statutory citations were changed to: RCW 46.20.720(1) and 46.61.5055(4)(9),</p> <p>Throughout the form, references to “any vehicle” were changed to “a vehicle.”</p> <p>Throughout the form, references to “ignition interlock breath alcohol device,” were changed to “Ignition interlock device.”</p>

		<p>The first phrase in paragraph 2 was changed from “Once the defendant has a valid driver’s license and insurance...” to “Once the defendant is eligible for reinstatement of the driver’s license,...” This change was patterned after Department of Licensing procedure and clarifies when the period of ignition interlock device requirements begins.</p> <p>In paragraph 6, after “following notification to” and before the blank lines, insert “the Department of Licensing and to:”</p> <p>In paragraph 6, B (2), after “.025” and before “or higher,” insert “or other specified setting in the judgment and sentence.”</p> <p>In paragraph 7, after “.025” and before “to prevent,” insert “unless otherwise ordered by the court in the judgment and sentence.”</p> <p>The new paragraph 8 was added:</p> <p style="padding-left: 40px;">This order shall not apply to vehicles owned by defendant’s employer and driven as a requirement of employment during working hours.</p>
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