



WASHINGTON COURTS

June 9, 2020

TO:

FROM: Shannon Hinchcliffe, Legal Services and Appellate Court Support Manager, J Benway, Sr. Legal Analyst, Tom Creekpauam, Sr. Legal Analyst, and Ashley Tam, Sr. Legal Analyst

SUBJECT: 2020 Updates to the CrR 4.2(g), CrRLJ 4.2(g), and JuCR 7.7 Statement on Plea of Guilty.

The following are detailed descriptions of the changes.

2020 CHANGES TO GUILTY PLEA FORMS AND ATTACHMENTS	
<p>1. CrR 4.2(g) Statement of Defendant on Plea of Guilty Sex Offense</p> <ul style="list-style-type: none"> • Laws of 2018, ch. 269, § 18; • <i>State v. Basset</i>, 193 Wn.2d 67, 428 P.3d 343 (2018); • <i>State v. Gilbert</i>, 193 Wn.2d 169, 438 P.3d 133 (2019); • Laws of 2020, ch. 330, § 1 (1504); • Laws of 2020 ch. 76 (1551); 	<p><i>Section (6)(f)(ii)</i> If I was at least 16 but less than 18 years old at the time of the offense, the judge will impose a maximum term of life and will impose a minimum term of total confinement that is at least 25 years and may be as long as life without the possibility of parole or early release for that crime.</p> <p><i>Section (6)(k)</i> The judge does not have to follow anyone’s recommendation as to sentence. If I was over the age of 18 when I committed this crime <u>the judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so (except as provided in paragraph 6(i)).</u> If I was under the age of 18 when I committed this crime, the judge has the discretion to impose an exceptional sentence downward. I understand the following regarding exceptional sentences:</p> <p><i>Section (6)(k)(v)</i> <u>(v) If I committed this crime under the age of 18, the judge must consider mitigating circumstances related to my youth, including, but not limited to immaturity, impetuosity, and failure to appreciate risks and consequences, the nature of my surrounding environment and family circumstances, the extent of my participation in the crime, the way familial and peer pressures may have affected me, how youth impacted any legal defense, and any factors suggesting that I might be successfully rehabilitated. If I am convicted of a sentencing enhancement, the court has full discretion to depart from mandatory sentencing enhancements</u></p>

<p>Laws of 2020, ch. 26, § 7 (2318); Laws of 2020, ch. 276, § 1 (2394); Laws of 2020, ch. 29, § 3 (2473); Laws of 2020, ch. 137, § 2 (5291); and</p> <ul style="list-style-type: none"> • Laws of 2020, ch. 141, § 1 (5488). 	<p><u>and to take the particular circumstances surrounding my youth into account.</u></p> <p><i>Section (6)(q)</i> (q) I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a \$100.00 DNA collection fee, <u>unless a DNA collection fee has previously been ordered.</u></p> <p><i>Section (6)(r) is removed and subsequent sections re-lettered</i> I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.</p> <p><i>Section (6)(yz)</i> 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 <u>including other minor child enhancements, for all offenses sentenced under chapter 9.94A RCW.</u></p>
<p>2. CrR 4.2(g) Statement of Defendant on Plea of Guilty Non Sex Offense</p> <ul style="list-style-type: none"> • Laws of 2020, ch. 330, § 1 (1504); • Laws of 2020 ch. 76 (1551); • Laws of 2020, ch. 26, § 7 (2318); 	<p><i>Section (6)(k)(v)</i> If I committed this crime under the age of 18, the judge must consider mitigating circumstances related to my youth, including, but not limited to immaturity, impetuosity, and failure to appreciate risks and consequences, the nature of my surrounding environment and family circumstances, the extent of my participation in the crime, the way familial and peer pressures may have affected me, how youth impacted any legal defense, and any factors suggesting that I might be successfully rehabilitated. <u>If I am convicted of a sentencing enhancement, the court has full discretion to depart from mandatory sentencing enhancements and to take the particular circumstances surrounding my youth into account.</u></p> <p><i>Section (6)(s)</i> The judge may sentence me under the Parenting Sentencing Alternative if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report, <u>including a family impact</u></p>

<ul style="list-style-type: none"> • Laws of 2020, ch. 276, § 1 (2394); • Laws of 2020, ch. 29, § 3 (2473); • Laws of 2020, ch. 137, § 2 (5291); and • Laws of 2020, ch. 141, § 1 (5488). 	<p><u>statement</u>, or a chemical dependency screening report, or both. If the judge decides to impose the Parenting Sentencing Alternative, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. <u>I have the right to assistance of counsel at this hearing and the court will appoint counsel if I am indigent.</u> The court may modify the conditions of community custody or impose sanctions, <u>including extending the length of participation in the alternative program by no more than six months.</u> If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.</p> <p><i>Section 6(v) is removed and subsequent sections re-lettered</i> If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.</p> <p><i>Section (6)(ddee)</i> 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, <u>including other minor child enhancements, for all offenses sentenced under chapter 9.94A RCW.</u></p>
<p>JuCR 7.7 Statement of Juvenile on Plea of Guilty</p> <ul style="list-style-type: none"> • RCW 43.43.7541 • Laws of 2020, ch. 167 § 2 (1191); 	<p><i>Section 4</i></p> <p><input type="checkbox"/> Count(s) _____ was(were) committed against a family or household member (RCW 26.50.010(6)).</p> <p><input type="checkbox"/> Count(s) _____ was(were) committed against an intimate partner (RCW 26.50.010(7)).</p> <p><i>Section 7 (and other affected sections that refer to DCYFJR)</i></p> <p><input type="checkbox"/> <u>COMMITMENT TO DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES JUVENILE REHABILITATION</u></p>

- Laws of 2020, ch. 29, § 3 (2473);
- Laws of 2020 ch. 76 (1551).

(DCYFJR) COMMITMENT:

Section 12[B]

OFFENDER REGISTRATION FOR SEX OFFENSE OR KIDNAPPING

OFFENSE: Because this crime involves a sex offense, or a kidnapping offense involving a minor as defined in RCW 9A.44.128, or unlawful transmission of HIV to a child or vulnerable adult under chapter 70.24 RCW, I will be required to register where I reside, study, or work. The specific registration requirements are set forth in the “Offender Registration” Attachment.

Section 12 (C) 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 unless my DNA was previously taken in another case. 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.

Section 12(D) is removed and subsequent sections re-lettered

~~**HIV TESTING:** If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus. RCW 70.24.340.~~

Section 12(EF) School Notification

I understand that if one or more of the offenses for which I am pleading guilty is a violent offense as defined in RCW 9.94A.030; a sex offense as defined in RCW 9.94A.030; an offense under RCW chapter 9.41 (firearms/weapons); or, unlawful possession or delivery, or both, of a controlled substance in violation of RCW chapter 69.50; then, following my adjudication of guilt the court will provide written notification of the adjudication to any school in which I was enrolled prior to adjudication, or, in which I express an intent to enroll following adjudication, unless: (1) I have already received a high school diploma or its equivalent; or, (2) I am over the age of 18 and my enrollment information cannot be obtained or I

~~assert no intention of enrolling in any educational program. If I am enrolled in a common school, the court will notify the principal of my plea of guilty if the offense for which I am pleading guilty is a violent offense as defined in RCW 9.94A.030; a sex offense as defined in RCW 9.94A.030; inhaling toxic fumes under chapter 9.47A RCW; a controlled substance violation under chapter 69.50 RCW; a liquor violation under RCW 66.44.270; or any crime under chapters 9.41, 9A.36, 9A.40, 9A.46, and 9A.48 RCW. RCW 13.04.155.~~

Section 12 [I]

RIGHT TO POSSESS FIREARMS: [JUDGE MUST READ THE FOLLOWING TO OFFENDER] I have been informed that if I am pleading guilty to any offense that is classified as: (1) a felony, or (2) any of the following crimes when committed by one family or household member against another or by one intimate partner against another: assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence, or (3) harassment committed by one family or household member against another or by one intimate partner against another, committed on or after June 7, 2018; that I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so has been restored by the court in which I am adjudicated or the superior court in Washington State where I live, and by a federal court if required.

Section 16

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))~~.

[***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))~~.

<p>JuCR 7.7 Offender Registration Attachment</p> <ul style="list-style-type: none"> • Laws of 2020 ch. 76 (1551). 	<p>1. General Applicability and Requirements: Because this crime involves a sex offense or a kidnapping offense involving a minor as defined in RCW 9A.44.128, <u>or unlawful transmission of HIV to a child or vulnerable adult under chapter 70.24 RCW</u>, I will be required to register.</p>
<p>CrRLJ 4.2(g) Statement of Defendant on Plea of Guilty</p> <ul style="list-style-type: none"> • Laws of 2020 ch. 189 (5434); • Laws of 2020 ch. 276 (2473); • Laws of 2020 ch. 76 (1551). 	<p><i>Section 4</i></p> <p><input type="checkbox"/> Count(s) _____ was (were) committed against an intimate partner (RCW 9A.36.041 and RCW 26.50.010(7)).</p> <p><input type="checkbox"/> Count(s) _____ was (were) committed against a family or household member (RCW 26.50.010(6)).</p> <p><i>Section 5</i></p> <p>(e) I am <u>The right to be</u> presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;</p> <p><i>Section 6 –addition of new (o); re-numbering the rest of the section.</i></p> <p><input type="checkbox"/> (o) <u>Concealed Pistol License:</u></p> <p><input type="checkbox"/> <u>My concealed pistol license (CPL) will be revoked until reinstated. RCW 9.41.270</u></p> <p><i>OR</i></p> <p><input type="checkbox"/> <u>My concealed pistol license (CPL) will be revoked for a period of three (3) years from the date of conviction, and I am prohibited from applying for a CPL for three years from the date of conviction. I must immediately surrender any concealed pistol license. RCW 9.41.282.</u></p> <p><i>Section 6(k) is removed and subsequent sections re-lettered.</i></p> <p>If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.</p> <p><i>Section 6(x)</i></p> <p>If this crime involves sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation, or conspiracy to commit a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.128, <u>or unlawful transmission of HIV to a child or vulnerable adult under chapter 70.24 RCW</u>, I will be required to register with the county sheriff as described in the “Offender Registration” Attachment.</p> <p><i>Section 11</i></p>

	<p><input type="checkbox"/> The crime(s) was (were) committed against intimate partner(s): _____ (name(s)) (RCW 9A.36.041 and 26.50.010(7)).</p> <p><input type="checkbox"/> The crime(s) was (were) committed against family or household member(s): _____ (name(s)) (RCW 26.50.010(6)).</p> <p><input type="checkbox"/> [<i>No statement made.</i>] Instead of making a statement, I agree that the court 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:</p> <p><input type="checkbox"/> intimate partner(s): _____ (name(s)). (RCW 9A.36.041 and 26.50.010(7)).</p> <p><input type="checkbox"/> family or household member(s): _____ (name(s)). (RCW 26.50.010(6))</p>
<p>CrRLJ 4.2(g) Offender Registration Attachment</p> <ul style="list-style-type: none">• Laws of 2020 ch. 76 (1551).	<p>“Offender Registration” Attachment: Sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation or conspiracy to commit a sex offense, or a kidnapping offense involving a minor, as defined in <u>RCW 9A.44.128, or unlawful transmission of HIV to a child or vulnerable adult under chapter 70.24 RCW.</u> (If required, attach to Statement of Defendant on Plea of Guilty.)</p> <p>1. General Applicability and Requirements: Because this crime involves sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation or conspiracy to commit a sex offense, or a kidnapping offense involving a minor, as defined in <u>RCW 9A.44.128, or unlawful transmission of HIV to a child or vulnerable adult under chapter 70.24 RCW,</u> I will be required to register.</p>