JuCR
RULE 6.4
ADVICE ABOUT DIVERSION PROCESS

(a) Advice When Confinement Possible. A juvenile alleged to have committed an offense for which an adult could be confined shall be given a copy of a statement in substantially the following form during the initial interview with a diversion unit. The statement shall also be read by, or read to, the juvenile before the juvenile signs the statement.

Advice About Diversion

1. Diversion is a different way of dealing with juveniles who are charged with an offense. You do not go to court and there is no trial before a judge.

2. A diversion agreement is a contract between you and the diversion unit. A diversion agreement may require you to do certain things, such as community service, attend a counseling, informational, or educational interview, or make restitution, but you cannot be sent to jail. Under certain circumstances you may be counseled and released, which means no further action will be required of you.

3. If you sign a diversion agreement, or if you are counseled and released, the offense with which you are charged and any diversion agreement will be part of your criminal history. When you have a criminal history, (A) you may not necessarily be permitted to participate in diversion for other offenses you have committed or may commit in the future, and (B) you may be given a longer sentence for other offenses you have committed or may commit in the future.

4. Your criminal history for this offense will show whether or not you have completed the terms of this diversion agreement.

5. Your criminal history may be available to the police, the prosecutor, the court, and the diversion unit.

6. If you do not follow the diversion agreement, the prosecutor may bring you to a hearing for the offenses with which you are charged. If you do not appear at the court hearing, the court may order that you be arrested.

7. When you are 18 years old, you may ask the court to destroy all records on this offense if your criminal history consists of only one diversion and 2 years have passed since you completed the diversion agreement.

8. You have the right to talk to a lawyer about whether

you should participate in diversion or whether you should go to court. You will not have to pay for a lawyer if you cannot afford it. If you do not believe you committed this offense, you should talk to a lawyer.

9. When you agree to participate in the diversion process, you do not have the right to have a free lawyer appointed for you to help you work out a diversion agreement, but you do have the right to have a lawyer help you work out a diversion agreement if you can afford to pay for it.

10. You do not have to participate in diversion. If you do not participate, your case will go to court if charges are filed by the prosecutor. If your case goes to court, you can have a lawyer to represent you, and you will not have to pay for the lawyer if you cannot afford it. If you are found guilty in court, the maximum penalty cannot be greater than the maximum penalty the diversion unit may impose.

11. I have been informed and fully understand that if the offense for which I have entered into a diversion agreement is a violation of RCW 66.44, 69.41, 69.50, or 69.52, and I was 13 years of age or older when the offense was committed, the diversion agreement will result in the suspension or revocation of my privilege to drive. (If not applicable, this paragraph should be crossed out and initialed by the offender.)

12. I have been informed and fully understand that if I am enrolled in a common school, the court will notify the principal of my diversion agreement if the offense for which I am entering into a diversion agreement is a violent offense as defined in RCW 9.94A.030; a sex offense as defined in RCW 9.84A.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 9A.36, 9A.40, 9A.46, and 9A.48 RCW. (If not applicable, this paragraph should be crossed out and initialed by the offender.)

13. I have read or someone has read to me everything printed above, and I understand it. I have been given a copy of this statement.

Dated _____ Dated _____

_____ _____
Parent or Guardian (optional) Juvenile

The above statement was read to the juvenile and signed by the juvenile on the date indicated.

_____
Representative of Diversion Unit

If applicable:

I am fluent in the _____ language and I have translated this entire document for the juvenile from English into that language. The juvenile has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19___, at _____, Washington.

_____
Interpreter

(b) Advice When No Confinement Possible. A juvenile alleged to have committed a traffic infraction or an offense for which an adult could not be confined shall be given a copy of a statement in substantially the following form during the initial interview with a diversion unit. The statement shall also be read by, or read to, the juvenile before the juvenile signs the statement.

Advice About Diversion

1. Diversion is a different way of dealing with juveniles who are charged with an offense. You do not go to court and there is no trial before a judge.

2. A diversion agreement is a contract between you and the diversion unit. If you are alleged to have committed a traffic infraction, a diversion agreement requires you to do community service or attend educational or counseling sessions. If you are alleged to have committed some other offense, a diversion agreement may require you to do certain things, such as community service, attend a counseling, informational, or educational interview, or make restitution, but you cannot be sent to jail. Under certain circumstances you may be counseled and released, which means no further action will be required of you.

3. If you do not follow the diversion agreement, the prosecutor may bring you to a hearing for the offenses with which you are charged. If you do not appear at the court hearing, the court may order that you be arrested.

4. When you are 18 years old, you may ask the court to destroy all records on this offense if your criminal history consists of only one diversion and 2 years have passed since you completed the diversion agreement.

5. You have the right to talk to a lawyer about whether you should participate in diversion or whether you should go to court. You will not have to pay for a lawyer if you cannot afford it. If you do not believe you committed this offense, you should talk to a lawyer.

6. When you agree to participate in the diversion

process, you do not have the right to have a free lawyer appointed for you to help you work out a diversion agreement but you do have the right to have a lawyer help you work out a diversion agreement if you can afford to pay for it.

7. You do not have to participate in diversion. If you do not participate, your case will go to court if charges are filed by the prosecutor. If your case goes to court, you can talk to a lawyer but you may have to pay for it. If you are found guilty in court, the maximum penalty cannot be greater than the maximum penalty the diversion unit may impose.

8. If you are charged with a traffic infraction and agree to diversion, the diversion unit may notify the Department of Licensing. This may affect your driving privileges.

9. I have read or someone has read to me everything printed above, and I understand it. I have been given a copy of this statement.

Dated _____ Dated _____

_____ _____

Parent or Guardian (optional) Juvenile

The above statement was read to the juvenile and signed by the juvenile on the date indicated.

_____

Representative of Diversion Unit

If applicable:

I am fluent in the _____ language and I have translated this entire document for the juvenile from English into that language. The juvenile has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19___, at _____, Washington.

_____

Interpreter

In addition to amendments proposed for grammatical purposes, under "Advise when confinement is possible.": #7 and #9 are deleted pursuant to 1997 C338 ' 40, amending RCW 13.050.050; #11 is added pursuant to 1988 C148 ' 2, and #12 is added pursuant to 1997 C266 ' 7, amending RCW 13.04.155. Under "Advise when no confinement possible": #4 and #6 are deleted pursuant to 1997 C338 ' 40, amending RCW 13.050.050.

(Amended September 1, 1999)