



Felony Judgement and Sentence Summary of Changes Effective 1/1/2023

Form Changes: Forms changes are based on case law, comments , and legislation ([Chapter 260, 2022 Laws](#))

1.	CR 08.0440 Felony Judgement and Sentence (All)	<p><u>Updated</u> the language related to community custody (sec. 4.2) to better reflect the statute and actual conditions the defendant must comply with on community custody. Example language changes are below:</p> <p>“(B) While on community custody, the defendant shall:</p> <ol style="list-style-type: none"> (1) report to and be available for contact with the assigned community corrections officer, as directed; (2) work at a DOC-approved education, employment, and/or community restitution (service); (3) <u>obtain prior approval of DOC for the defendant’s residence location and living arrangements.</u> notify DOC of any change in defendant’s address or employment; (4) <u>not consume controlled substances, including marijuana, except pursuant to lawfully issued prescriptions/ authorization;</u> not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (8) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant’s residence location and living arrangements are subject to prior approval of DOC while on community custody. <p><u>Added</u> a restitution interest option to section 4.3 that allows the court to waive interest for restitution that is owed. See 1412 changes to 3.66.120, 9.94A.750, .753, 9.92.060, 9.95.210, 10.82.090.</p> <p><u>Added</u> to address changes to Restitution Interest:</p> <p>“Restitution Interest:</p> <p>[] The court finds that the restitution is owed to an insurer or a state agency other than the Dept. of Labor and</p>
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		<p>Industries and the defendant does not have the current or likely future ability to pay interest on that restitution. The court, in its discretion, waives interest on restitution.</p> <p>[] After considering the defendant’s available funds and liabilities, whether the defendant is indigent, homeless, or mentally ill, and the victim’s input relating to financial hardship caused to the victim, the court waives interest on restitution.”</p> <p><u>Added</u> the following to allow the court to waive restitution to insurer or state agency that is not the Department of Labor and Industries at sentencing:</p> <p>“[] The court finds that the restitution is owed to an insurer or a state agency other than the Dept. of Labor and Industries and the defendant does not have the current or likely future ability to pay that restitution. The court, in its discretion, waives restitution.”</p> <p>Note that interest on LFOs and interest on restitution was split to address that interest on restitution can be waived.</p> <p><u>Changed</u> DNA testing language in Section 4.4 from “This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense” to “If the defendant has already had a biological sample collected, the collecting agency may choose not to collect another sample.” to provide additional clarity to defendants.</p> <p><u>Added</u> the underlined section of text is section 5.2 “If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations <u>for ten years from your date of sentence or release from confinement, whichever is longer, and for restitution until you have completely satisfied your obligation, regardless of the statutory maximum for the crime.</u> RCW 9.94A.760, RCW 9.94A.505(5).”</p> <p><u>Changed</u> “identification” to “information” in section 5.5a to more closely match RCW 9.41.047 and better follow the clerk’s practice.</p>
<p>2.</p>	<p>CR 08.0440 Felony Judgement and Sentence Prison Sex Offense</p>	<p><u>Removed</u> duplicative section 4.1 (d). 4.1(b) already covers the circumstance.</p> <p><u>Removed</u> duplicative language regarding possessing controlled substance from section 4.2 B</p> <p><u>Added</u> “Only for sex offenses under RCW 9.94A.507, aggravated murder under RCW 10.95.030(3), and early</p>

		<p>release under RCW 9.94A.730: The Indeterminate Sentence Review Board may return you to total confinement for up to the remainder of your court-imposed prison term, if you are found guilty of violating a condition of community custody at a violation hearing. RCW 9.95.435.” to sec 5.4 about community custody violations.</p>
<p>3.</p>	<p>CR 08.0440 Felony Judgement and Sentence (DOSA)</p>	<p><u>Updated</u> the Substance Use Disorder language.</p> <p><u>Removed</u> the exceptional sentence language and marked section 2.4 as reserved because the DOSA statute presupposes the standard sentence range, see, e.g., RCW 9.94A.662(2)(a), (b), <u>State v. Murray</u>, 128 Wn. App. 718 (2005).</p> <p><u>Changed</u> the community custody conditions to more closely track the language in RCW 9.94A.703. (Underlined language is new, crossed out language is deleted) “[] pay all court-ordered legal financial obligations. [] report as directed to a community corrections officer. [] <u>obtain prior approval of the DOC for the defendant’s residence location and living arrangements.</u> notify the court or community corrections officer in advance of any change in defendant’s address or employment.</p> <p>[] remain [] within [] outside of a specified geographical boundary, to wit: _____” remain within or outside of prescribed geographical boundaries. [] <u>Work at DOC-approved education or employment.</u> Devote time to specific training or employment.</p> <p>[] <u>Work at DOC-approved community restitution.</u> Perform community restitution. [] <u>undergo and complete a domestic violence treatment program</u> stay out of areas designated by the judge</p> <p>[] not possess or consume alcohol.</p> <p>[] not possess or consume controlled substances, including marijuana, without a valid prescription/<u>authorization.</u> [] obtain a mental health evaluation and comply with recommended treatment.</p>
<p>4.</p>	<p>CR 08.0440 Felony Judgement and Sentence (Jail One Year or Less, Jail One Year or Less – Sex, First time Offender)</p>	<p><u>Changed</u> community custody language in sec 4.2 to make it clear in which counts the court is ordering community custody in response to a comment from a community corrections officer.</p> <p>The language now addresses community custody by count.</p>

<p>5.</p>	<p>Vacating Record of Felony Conviction Instructions</p>	<p><u>Added</u> information re: the victims of certain crimes in the first paragraph.</p> <p><u>Added</u> a table a broke out the steps to vacate each type of felony and the victims of certain crimes steps.</p> <p><u>Listed</u> the felonies that cannot be vacated by listing violent felonies, crimes against a person that are B and C felonies, and all class A felonies.</p> <p><u>Added</u> a link to the Prosecutor’s directory so defendants could locate the prosecutor’s address for service.</p>
<p>6.</p>	<p>CR 08.0900 Motion and Declaration for Order Vacating a Felony Record</p>	<p><u>Changed</u> from compound numbering and standard numbering to follow plain language guidelines.</p> <p><u>Added</u> headings to the sections of the form.</p> <p><u>Moved</u> Prohibited offenses from section 2.4 to section 2.</p> <p><u>Moved</u> Prohibited Offenses out of the table and broke out class A felonies from violent offense.</p> <p><u>Specified</u> the title of the statute for Driving under the Influence and Physical Control.</p> <p><u>Added</u> a “was not discharged” to allow for victims of certain crimes to section 3.</p> <p><u>Simplified</u> the criminal charges pending language and added an option for the only criminal charge pending to be prostitution to add an option for victims of certain crimes.</p> <p><u>Simplified</u> the language in section 5 regarding new convictions.</p> <p><u>Simplified</u> language in section 6.</p> <p><u>Added</u> “I committed this offense because I am a victim of domestic violence, sex trafficking, prostitution, commercial sexual abuse of a minor; or sexual assault</p> <ul style="list-style-type: none">• I have paid my crime victim penalty assessment full.• I have paid any restitution owed to a victim that is not an insurance provider in full.• The facts that show I am a victim of domestic violence, sex trafficking, prostitution, commercial sexual abuse of a minor; or sexual assault are:” to Victims of Certain crimes in section six to comply with RCW 9.94A.648. <p><u>Added</u> an option regarding service on the prosecuting attorney to the declaration.</p>

<p>7.</p>	<p>CR 08.0920 Order re: Motion to Vacate Felony Record</p>	<p><u>Changed</u> from compound numbering and standard numbering to follow plain language guidelines.</p> <p><u>Added</u> headings to the sections of the form.</p> <p><u>Moved</u> Prohibited offenses from section 2.4 to section 2.</p> <p><u>Moved</u> Prohibited Offenses out of the table and broke out class A felonies from violent offense.</p> <p><u>Specified</u> the title of the statute for Driving under the Influence and Physical Control.</p> <p><u>Added</u> a “was not discharged” to allow for victims of certain crimes to section 3.</p> <p><u>Simplified</u> the criminal charges pending language and added an option for the only criminal charge pending to be prostitution to add an option for victims of certain crimes.</p>
<p>8.</p>	<p>CR 08.0800 Petition re: Legal Financial Obligations (MTAF) and CR 08.0810 Order re: Legal Financial Obligations</p>	<p><u>Changes</u> to Legal Financial Obligation forms are with the Supreme Court Rules Committee. Once published, please see the order related to GR 39.</p>