

July 19, 2016

TO: Judicial Community and Legal Community

FROM: Merrie Gough, AOC Sr. Legal Analyst

RE: Amendments to CrR 4.2(g) Guilty Pleas and Attachment

On June 29, 2016, the Washington State Supreme Court adopted amendments to the following:

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| 1. CrR 4.2(g) | Statement of Defendant on Plea of Guilty to Non-Sex Offense |
| 1. CrR 4.2(g) | Statement of Defendant on Plea of Guilty to Sex Offense |
| 3. CrR 4.2(g) | “Felony Firearm Offender Registration” Attachment |

The amendments become effective when they are published in the Official Advance Sheets, Washington Reports, 185 Wn.2d No. 10. The anticipated publication date is August 2, 2016.

The changes implement approved recommended changes and:

* Laws of 2016, Ch. 94, relating to the firearm conviction database
* Laws of 2016, Ch. 136, relating to juvenile offenders - rehabilitation and integration
* Laws of 2016, Ch. 203, relating to impaired driving
* Laws of 2016, 1st Spec. Sess., Ch. 28, relating to Community Custody – Department of Corrections Supervision

The following table contains detailed descriptions of the changes:

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| 1. **CrR 4.2(g), Statement of Defendant on Plea of Guilty to Non Sex Offense** |
| To implement CrR 7.2(b), add the following new paragraph 6(a):  “(a) My right to appeal is limited.”  Renumber the remaining paragraphs.  To implement Laws of 2016, Ch. 203, § 7, in paragraph 6(b), below the table for the ***Standard Sentence Range***, in the abbreviation for the vehicular homicide enhancement, change the citation as follows:  (VH) Veh. Hom., see ~~RCW 46.61.520~~ RCW 9.94A.533(7),  Laws of 2016, 1st Spec. Sess., Ch. 28, §1 amends RCW 9.94A.501 by adding a new subsection “(8).” To implement the change, in paragraph 6(h), in the paragraph beginning with “During the period of community custody…,” change the first sentence as follows:  “During the period of community custody I will be under the supervision of the Department of Corrections. For crimes occurring on or after June 28, 2016, the supervision of the Department of Corrections cannot exceed the times specified in this paragraph.~~, and~~ I ~~will~~ may have restrictions and requirements placed upon me, including additional conditions of community custody that may be imposed by the Department of Corrections…”  In paragraph 6(r), change the reference to paragraph “6(g)” to “6(h).”  In paragraph 6(w), in the fifth sub-section, change the reference to paragraph “6(g)” to “6(h).”  To implement Laws of 2016, Ch. 136, §§ 7- 12, add the following new paragraph 6(bb):  (bb) I understand that RCW 46.20.265 requires that my driver’s license be revoked if (a) the current offense is a violation under RCW chapter 69.41 [Legend drug], 69.50 [VUCSA] , or 69.52 [Imitation drugs], and I was under the age of 21 at the time of the offense **OR** (b) the current offense is a violation under RCW 9.41.040 (unlawful possession of firearm), and I was under the age of 18 at the time of the offense **OR** (c) the current offense is a violation under RCW chapter 66.44 [Alcohol], and I was under the age of 18 at the time of the offense, **AND** if (a), (b), or (c) applies, the court finds that I previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.  Laws of 2016, Ch. 203, §7 amends RCW 9.94A.533(7). To implement new provisions, change paragraph 6(cc) as follows:  (cc) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor, or any drug, as defined by RCW 46.61.520, ~~committed on or after January 1, 1999,~~ an impaired driving enhancement of an additional two years shall be added to the ~~presumptive sentence~~standard sentence range for vehicular homicide for each prior offense as defined in RCW 46.61.5055(14). All impaired driving enhancements are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other impaired driving enhancements, for all offenses sentenced under Chapter 9.94A RCW.  In paragraph 6(hh) change the internal paragraph reference from “6(p)” to “6(q).”  Laws of 2016, Ch. 94, §1 amends RCW 9.41.330 by adding new subsections “(3)” and “(4)”. To implement the changes, change paragraph 6(mm) as follows:  (mm) If I am pleading guilty to a felony firearm offense as defined in RCW 9.41.010, I may be required to register as a felony firearm offender under RCW 9.41.330. I will be required to register as a felony firearm offender if I committed the felony firearm offense in conjunction with an offense committed against a person under age 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030. The specific registration requirements are in the “Felony Firearm Offender Registration” Attachment. |
| 1. **CrR 4.2(g), Statement of Defendant on Plea of Guilty to Sex Offense** |
| To implement CrR 7.2(b), add the follow new paragraph 6(a):  “(a) My right to appeal is limited.”  Renumber the remaining paragraphs.  Laws of 2016, 1st Spec. Sess., Ch. 28, §1 amends RCW 9.94A.501 by adding a new subsection “(8).” To implement the change, in paragraph 6(i), in the sub-paragraph beginning with “For sex offenses committed prior to September 1, 2001,” change the second sentence as follows:  If the period of confinement is over one year, the judge will sentence me to community custody for 36 months~~or up to the period of earned release, whichever is longer~~.  In paragraph 6(i), For sex offenses committed on or after September 1, 2001, subsection (*ii*), change the internal paragraph reference from “6(h)(i)” to “6(i)*(i).*” Change the second sentence as follows:  If the period of confinement is over one year, or if my crime is failure to register as a sex offender, and this is my second or subsequent conviction of that crime, the judge will sentence me to community custody for 36 months ~~or up to the period of earned release, whichever is longer~~.  In paragraph 6(k), the change the internal paragraph reference from “6(h)” to “6(i).”  In paragraph 6(t), in the sub-paragraph beginning with “For offenses committed before September 1, 2001, change the internal paragraph reference from “6(g)” to “6(h).”  In paragraph 6(t), in the sub-paragraph beginning with “For offenses committed on or after September 1, 2001, change the first two internal paragraph references from “6(h)(i)” to “6(i)*(i)*.” Change the third internal paragraph reference from “6(g)” to “6(h).”  To implement Laws of 2016, Ch. 136, §§ 7- 12, add the following new paragraph 6(x):  (x) I understand that RCW 46.20.265 requires that my driver’s license be revoked if (a) the current offense is a violation under RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and I was under the age of 21 at the time of the offense **OR** (b) the current offense is a violation under RCW 9.41.040 (unlawful possession of firearm), and I was under the age of 18 at the time of the offense **OR** (c) the current offense is a violation under RCW chapter 66.44 [Alcohol] and I was under the age of 18 at the time of the offense, **AND** if (a), (b), or (c) applies, the court finds that I previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.  In paragraph 6(cc) change the internal paragraph reference from “6(r)” to “6(s).”  Laws of 2016, Ch. 94, §1 amends RCW 9.41.330 by adding new subsections “(3)” and “(4)”. To implement the changes, revise paragraph 6(ee) as follows:  (ee) If I am pleading guilty to a felony firearm offense as defined in RCW 9.41.010, I may be required to register as a felony firearm offender under RCW 9.41.330. I will be required to register as a felony firearm offender if I committed the felony firearm offense in conjunction with an offense committed against a person under age 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030. The specific registration requirements are in the “Felony Firearm Offender Registration” Attachment. |
| 1. **CrR 4.2(g), “Felony Firearm Offender Registration” Attachment** |
| Laws of 2016, Ch. 94, §1 amends RCW 9.41.330 by adding new subsections “(3)” and “(4)”. To implement the changes, change the introduction in paragraph 1, General Applicability and Requirements, as follows:  **1. General Applicability and Requirements**: The defendant is required to register because this crime involves a felony firearm offense as defined in RCW 9.41.010, and:   * after considering statutory factors, the court decided the defendant must register; or * the offense was committed in conjunction with an offense committed against a person under the age of 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030. |