

June 17, 2016

**TO:** District and Municipal Court Judges and Commissioners, Court Administrators, Prosecuting Attorneys, Defense Attorneys, Law Libraries, and Public

**FROM:** Merrie Gough, AOC Sr. Legal Analyst

**RE:** 2016 Updates to the Misdemeanor Judgment and Sentencing Forms

The Courts of Limited Jurisdiction Forms Subcommittee and the Washington Pattern Forms Committee updated the DUI Sentencing Grid and the misdemeanor judgment and sentencing forms listed in the table below. The updates are based upon approved recommended changes and

* Laws of 2016, Ch. 89 (HB 2371), relating to Court use of JIS System;
* Laws of 2016, ch. 203 (ESHB 2700), relating to impaired driving;
* Laws of 2016, 1st Spec. Session, Ch. 29 (E2SHB 1713), relating to mental health and chemical dependency – treatment systems – integration;
* Laws of 2016, Ch. 136 (ESHB 2906), relating to juvenile offenders - rehabilitation and reintegration; and
* Laws of 2016, Ch. 81 (2ESHB 1553), relating to opportunity restoration.

Following are detailed descriptions of the changes.

|  |  |
| --- | --- |
| **All Cases** | |
| 1. **All Cases 01.0600** | **JIS Check Confidential Document Cover Sheet**  To implement Laws of 2016, Ch. 89, change the first sentence as follows:  “Upon request of a party, ~~A~~attached are the JIS/related data base documents the court relied upon when considering:”  In the last paragraph and in the footer, change the Session Law citation “Laws of 2016, Ch. 140, §1” to “RCW 2.28.210.” |

|  |  |
| --- | --- |
| **Misdemeanor Judgment and Sentencing** | |
|  | **DUI Sentencing Grid**  Change all statute effective dates to June 9, 2016.  To implement Laws of 2016, Ch. 203, §17, amending RCW 46.61.5055(1), make the following changes in the tables on page 1:  In the table for **“BAC Result < .15 or No Test Result”** and in the table for **“BAC Result ≥ .15 or Test Refusal,”** in the column for **“No Prior Offense**,” in the row for “24/7 Sobriety Program,” change “N/A” to “As Ordered.”  In the section on ***2*Mandatory Jail, Electronic Home Monitoring (EHM), and 24/7 Sobriety Program**, but on page 3, add the following text to the beginning of the paragraph beginning with “If the 24/7 sobriety program is available..:”  “If the 24/7 sobriety program is available: Where there is no prior offense, instead of jail time or EHM in lieu of jail time, and when the alcohol concentration is: 1) less than 0.15, the court may order a 90-day period of 24/7 sobriety program monitoring; 2) at least 0.15, the court may order a 120-day period of 24/7 sobriety program monitoring…”  To implement Laws of 2016, Ch. 203, §17, amending RCW 46.61.5055(9), make the following changes in the tables on page 1:  In the table for “**BAC Result < .15 or No Test Result**” in the column for “**No Prior Offense**” in the row for “Driver’s License,” add a “5” next to “90-Day Suspension*5*.”  In the table for “**BAC Result ≥ .15 or Test Refusal**” in the column for “**No Prior Offense**” in the row for “Driver’s License,” add a “5” next to “1-Year Revocation*5*.”  Below the Court DUI Sentencing Grid tables, change the note beginning with “\*\*” as follows:  \*\* Driver’s license minimum suspension/revocation. See note 5 for exceptions. DOL may impose more.  On page 3, add the following new section:  ***5*Driver’s License and 24/7 Sobriety Program**: If there are no prior offenses, and the person’s alcohol concentration is:  1) less than 0.15, the person’s driving privilege is suspended for 90-days or until the person is evaluated by an alcoholism agency or probation department and completes or is enrolled in a 90-day period of 24/7 sobriety program monitoring. The license suspension must not be fewer than 2 days.  2) at least 0.15, the person’s driving privilege is revoked for one year or until the person is evaluated by an alcoholism agency or probation department and completes or is enrolled in a 120-day period of 24/7 sobriety program monitoring. The license revocation must not be fewer than 4 days.  Delete the table titled “**Department of Licensing Required Ignition Interlock Device Requirements, RCW 46.20.720(3),(4) as amended with statutes effective through September 26, 2015\***,” and the note beginning with “\*” immediately below that table should be deleted. The information should be moved to page 5.  Delete the page titled “**Department of Licensing - DUI Administrative Sanctions and Reinstatement Provisions**.” Administrative sanctions are no longer a consequence of conviction. They are imposed administratively.  On the page titled “**Court and Department of Licensing (DOL) Ignition Interlock Requirements, ~~RCW 46.20.380, 46.20.385,~~ RCW 46.20.720**,” delete the citations to “RCW 46.20.380 and 46.20.385” and add the citation to “RCW 46.20.720” to the title as indicated.  Delete the table titled “**Ignition Interlock Driver’s License, RCW 46.20.380, 46.20.385**.” The ignition Interlock Driver’s License is no longer a consequence of conviction. It is imposed administratively.  Laws of 2016, Ch. 203, organized and consolidated information about DOL imposed ignition interlock device requirements into RCW 46.20.720. To be consistent, all provisions relating to RCW 46.20.720 that are imposed upon conviction were moved to the fifth page after the section titled “**Court Order to Comply with Rules and Requirements of DOL**” as indicated below:  Delete the headings and the text beginning with the following headings:   * **Court Ordered Discretionary Ignition Interlock (II) Device** * **Passenger Under Age 16** * **Deferred Prosecution** * **DOL Imposed Ignition Interlock (II) Device - RCW 46.20.720**   Replace the deleted text with:  **“DOL Ignition Interlock Device (IID) Requirements RCW 46.20.720**:  **Restriction and duration**:  ***IID Driver’s License***: As required for issuance and while the IID Driver’s License is valid.  ***Post Conviction***: After any applicable period of suspension, revocation, or denial of driving privilege due to conviction for DUI, Phys. Control, or an equivalent local or out-of-state statute or ordinance.   |  |  |  | | --- | --- | --- | | No Previous Restriction: | Previous 1-Year Restriction: | Previous 5-Year Restriction: | | 1 Year | 5 Years | 10 Years |   ***Passenger Under Age 16***: DOL shall extend the ignition interlock restriction an additional six months as required by RCW 46.61.5055(6)(a).  ***Tolling:*** For incidents occurring on or after June 9, 2016, the restriction is tolled for any period in which the person does not have an IID installed on a vehicle owned or operated by the person.  ***Court Order***: If the court orders that a person may drive only a motor vehicle equipped with a functioning IID, the court sets the duration of the restriction, up to the five years jurisdictional limit of the court, and the calibration level. RCW 46.20.720(1)(e).  **Calibration**: Unless otherwise ordered, the calibration level for any IID shall be .025%.  **IID Costs**: $20 fee per month and any other costs associated with the use of an IID. DOL may waive the monthly fee if the person is indigent under RCW 10.101.010.  **Requirements for removal**: Restriction effective, until IID vendor certifies to DOL that none of the following occurred within four months prior to date of release: any attempt to start the vehicle with a BAC of .04 or more unless another test performed within 10 minutes registers a breath alcohol concentration lower that .04 and the digital image confirms the same person provided both samples; failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test; failure to pass any random retest with a breath alcohol concentration of 0.025 or lower unless another test performed within 10 minutes registers a breath alcohol concentration lower than 0.025, and the digital image confirms the same person provided both samples; failure of the person to appear at the IID vendor when required.  **Day-for-Day credit**: All time during which a required IID is installed applies on a day-for-day basis toward a post-conviction IID requirement for the same incident. If day-for-day credit exceeds the post-conviction requirement, DOL may waive requirements.  **Employer Exemption**: The installation of an IID is not necessary on vehicles owned, leased, or rented by a person’s employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of a person’s employer as a requirement of employment during business hours upon providing an Employer Exemption declaration to DOL. However, the employer exemption does not apply when the employer’s vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment.”  Below the heading “**Court – Reckless Driving/Negligent Driving – 1st Degree Sentencing Grid**,” in the table titled “Reckless Driving”, below the subheading “Consequences,” and in the row titled “II Device,” add the following as the third bullet:   * “For incidents occurring on or after June 9, 2016, the restriction is tolled for any period in which the person does not have an IID installed on a vehicle owned or operated by the person.”   In the same row, change the last bullet as follows:  “Costs ~~to install, remove, and lease~~associated with the use of the ignition interlock device, and $20 fee per month.”  In the table titled “**Negligent Driving – 1st Degree**”, below the subheading “Consequences,” and in the row titled “II Device,” add the following as the third bullet:   * “For incidents occurring on or after June 9, 2016, the restriction is tolled for any period in which the person does not have an IID installed on a vehicle owned or operated by the person.” |
| 1. **CrRLJ 03.0400** | **Rights, Conditions and Warnings (DUI/Physical Control)**  To update IID certification language in RCW 43.43.395, change paragraph 5 as follows:   1. **IGNITION INTERLOCK.** Any device used must meet ~~be~~certification standards adopted ~~certified~~ by the ~~Equipment and Standards Section of the~~ Washington State Patrol ~~(ESSWSP)~~ and be installed by a vendor certified by the ~~ESSWSP~~Washington State Patrol. |
| 1. **CrRLJ 07.0100** | **Judgment and Sentence (DUI/Physical Control)**  To implement an approved recommended change, in the first paragraph delete the check box option for:  ~~Non-alcohol related~~  To implement Laws of 2016, ch. 203, §14, amending RCW 46.20.720(1)(e), and §17, amending RCW 46.61.5055(1), under the heading “**Additional Conditions of Sentence – 24/7 Sobriety Program/Discretionary Ignition Interlock,**” change the two check box options as follows:  24/7 Sobriety Program is available ~~and is ordered as follows~~. For  6 months  \_\_\_\_ days/months~~,~~:  comply with the 24/7 Sobriety Program (RCW 46.61.5055(~~2~~1) – (3)~~1 prior: alternative to EHM; 2 or 3 priors: mandatory~~.)  do not drive any motor vehicle unless it is equipped with an ignition interlock device (this **does not** authorize you to drive without a valid license).  Comply with discretionary ignition interlock device requirements. RCW 46.20.720(1)(e):  For a period of \_\_\_\_\_\_\_\_\_ years  for \_\_\_\_\_\_\_ months ~~from \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date),  for 6 months following the period of driver’s license suspension, revocation, or denial,~~ drive only a motor vehicle equipped with a functioning ignition interlock device, which is in addition to any ignition interlock device restriction imposed by DOL.  ~~From \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date),  for 6 months do not drive any motor vehicle unless it is equipped with an ignition interlock device (this~~ **~~does not~~** ~~authorize you to drive without a valid license).~~  Change the “**Employer exemption**,” section as follows:  ~~“~~**Employer exemption**:~~”~~ When the defendant provides an E~~e~~mployer Exemption declaration~~affidavit~~ to the Department of Licensing, this order shall not apply to vehicles owned, leased, or rented by defendant’s employer or to those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of the defendant’s employer as a requirement of employment during working hours. **Except** **that**, the employer exemption does not apply ~~for the first \_\_\_\_\_\_\_\_days after the ignition interlock device has been installed; or~~ when the employer’s vehicle is assigned exclusively to the defendant and used solely to commute to and from employment.  To implement Laws of 2016, 1st Spec. Session, Ch. 29, §530, amending the definition of “treatment” in RCW 46.61.5055(14), under the heading “**Additional Conditions of Sentence**,” change the second and third check box options as follows:  Obtain a~~n~~  ~~alcohol/drug~~substance use disorder evaluation  expanded alcohol assessment from a Washington State-approved agency and file a copy of the evaluation/assessment within \_\_\_\_\_\_\_\_ days. Begin any recommended/ appropriate substance use disorder treatment or education within \_\_\_\_\_\_ days and file proof of timely enrollment and completion.  Begin the following within \_\_\_\_\_\_\_\_days, complete within \_\_\_\_\_\_\_\_\_\_\_\_\_\_ days, and file proof of timely enrollment and completion:  DUI Victim’s Panel Alcohol/Drug Information School  One Year ~~Alcohol/Drug~~Substance Use Disorder Treatment  Two Year ~~Alcohol/Drug~~Substance Use Disorder Treatment  ~~Alcohol/Drug~~Substance Use Disorder Treatment for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_  Driver Improvement School  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  To implement Laws of 2016, Ch. 136, §§ 7- 12, on page 3, after the check box for “Other” and before the check box for “Return for a review hearing…” insert the following text:  “**Department of Licensing Notice – DUI, Physical Control, Reckless Driving, Negligent Driving 1st**.  **Department of Licensing Notice – Defendant under age 21 only.**  Count \_\_\_\_\_\_\_\_ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and the defendant was under 21 years of age at the time of the offense **OR** (b) a violation under RCW 9.41.040 (unlawful possession of firearm), and the defendant was under the age of 18 at the time of the offense **OR** (c) a violation under RCW chapter 66.44 [Alcohol],and the defendant was under the age of 18 at the time of the offense, **AND** the court finds that the defendant 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.  **Clerk’s Action –**The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must suspend/revoke the Defendant’s driver’s license.” |
| 1. **CrRLJ 07.0110** | **Judgment and Sentence**  To implement Laws of 2016, Ch. 136, §§ 7- 12, on page 2, after the check box for “**This crime involves a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.130**” and before the check box for “Return for a review hearing…” insert the following text:  “ **Department of Licensing Notice – Defendant under age 21 only.**  Count \_\_\_\_\_\_\_\_ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and the defendant was under 21 years of age at the time of the offense **OR** (b) a violation under RCW 9.41.040 (unlawful possession of firearm), and the defendant was under the age of 18 at the time of the offense **OR** (c) a violation under RCW chapter 66.44 [Alcohol], and the defendant was under the age of 18 at the time of the offense **AND** the court finds that the defendant 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.  **Clerk’s Action –**The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant’s driver’s license. RCW 46.20.265.” |
| 1. **CrRLJ 07.0500** | **Standing Order of Requirements for Defendants Prohibited from Operating a Vehicle that is not Equipped with a Functioning Ignition Interlock Device Under RCW 46.20.720(1)(e) or 46.61.5055(6), (11)**  To implement Laws of 2016, ch. 203, §14, amending RCW 46.20.720, in the form title and in the first paragraph, change the citation to RCW 46.20.720 by add sub (e): RCW 46.20.720(1)(e).  To implement Laws of 2016, ch. 203, §14, amending RCW 46.20.720(7), change paragraph 4 as follows:  4. The defendant shall ~~bear the cost of installation and maintenance~~pay any costs associated with the use of the ignition interlock device.  To implement Laws of 2016, ch. 203, §14, amending RCW 46.20.720(6), change paragraph 8 as follows:  8. This order shall not apply to vehicles owned, leased, or rented by defendant’s employer, and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of the defendant’s employer as a requirement of employment during working hours. However, the employer exemption does not apply~~:~~  ~~A. (first conviction): for the first 30 days after the ignition interlock device has been installed.~~  ~~B. (second or subsequent): for the first 365 days after the ignition interlock device has been installed.~~  ~~C.~~ if the employer’s vehicle is assigned exclusively to the defendant and used solely for commuting to and from employment. |
| **Certificate of Restoration of Opportunity** | |
| 1. **CRO 01.0100** | **Petition for Certificate of Restoration of Opportunity**  New form to implement Laws of 2016, Ch. 81. |
| 1. **CRO 01.0200** | **Notice of Filing a Petition for Certificate of Restoration of Opportunity**  New form to implement Laws of 2016, Ch. 81. |
| 1. **CRO 01.0300** | **Proof of Service of Notice of Filing a Petition for Certificate of Restoration of Opportunity**  New form to implement Laws of 2016, Ch. 81. |
| 1. **CRO 01.0600** | **Order of Dismissal of Petition for Certificate of Restoration of Opportunity**  New form to implement Laws of 2016, Ch. 81. |
| 1. **CRO 01.0700** | **Order and Certificate of Restoration of Opportunity**  New form to implement Laws of 2016, Ch. 81. |