

# **Juvenile Recovery Court**

Eligibility and Admissions Packet for Defense Attorneys

- 1) Juvenile Recovery Court Eligibility and Admissions Instructions for Attorneys
- 2) Juvenile Recovery Court Legal Pathways
- 3) Juvenile Recovery Court Referral Form
- 4) Juvenile Recovery Court Contract
- 5) Order Substituting Attorney

# For more information about this program, forms or the process:

- Chris Thompson, Program Coordinator: <u>chris.thompson@clark.wa.gov</u>
- > Christina Phelan, Contracted Defense Attorney for JRC: <u>christina@phelanlawoffice.com</u>
- Jill McGinnis, Juvenile Court Program Manager: jill.mcginnis@clark.wa.gov

www.clark.wa.gov/juvenile-court/juvenile-recovery-court

### **Eligibility Requirements for Juvenile Recovery Court Program:**

- 1. The potential participant must be a juvenile **age 15 or older** facing charges in Clark County Juvenile Court.
- 2. The potential participant must have undergone a substance use disorder evaluation and meets the diagnostic criteria for **moderate to severe substance use disorder**.
- 3. The potential participant must screen as **"moderate" or "high" risk** in PRE-SCREEN version of the Positive Achievement Change Tool (PACT), a risk assessment used by Juvenile Court Probation.
- 4. The potential participant must live in Clark County, Washington throughout the duration of the program.
- 5. Per RCW 2.30.030 and except under special findings by the court, the following individuals are not eligible for participation in therapeutic courts:

(a) Individuals who are currently charged or who have been previously convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030;

(b) Individuals who are currently charged with an offense alleging intentional discharge, threat to discharge, or attempt to discharge a firearm in furtherance of the offense;

(c) Individuals who are currently charged with or who have been previously convicted of vehicular homicide or an equivalent out-of- state offense; or

(d) Individuals who are currently charged with or who have been previously convicted of: An offense alleging substantial bodily harm or great bodily harm as defined in RCW  $\underline{9A.04.110}$ , or death of another person.

- 6. The potential participant and his/her legal guardian must agree to the Conditions of the Juvenile Recovery Court Agreement and are highly encouraged to be involved throughout the youth's program.
- 7. <u>DISMISSAL ELIGIBILITY</u>: Youth with less than two points of criminal history can enter on a contract that would allow for a dismissal upon successful completion of JRC without any new crimes (youth enters with a suspended sentence). If the youth unsuccessfully is discharged from the program (i.e. opts out or terminated), the Deputy Prosecuting Attorney (DPA) completes findings and the suspended sentence is revoked and a new disposition order is entered. The prosecutor's contract is upon the discretion of the DPA.

### **JRC Referral and Admission Process**

The Juvenile Recovery Court recognizes it serves a population with diverse ethnic, cultural and spiritual backgrounds. The program seeks to provide equal access to and services for all participants and will not discriminate in any procedures based on race, color, national origin, age, physical or mental illness, marital status, religion, creed, sex, sexual orientation, or political beliefs.

In addition, JRC works to empower the participants and honor their individual cultural background by utilizing evidenced-based treatment programs and/or community providers that support and encourage their participation in cultural, ethnic or spiritual celebrations or ceremonies available to them throughout their treatment process. Participation in these events and programs will be allowed / approved by consensus of the Treatment Team. Team members will keep an open mind, recognizing cultural competency is not a point arrived at, but rather is always evolving as participants continue to present varied cultural needs.

### Referral Procedure: (ideally this entire process occurs within a two week time period)

- 1. Referring entity **submits referral form to JRC Program Coordinator** via email, fax or mailbox in juvenile department. Referrals typically come from defense attorneys or probation officers. All referrals will be entered into treatment court database (Monitor.net). JRC referrals should be done within a reasonable timeframe of the charge(s) being filed. Referral form accessible on Juvenile Court website www.clark.wa.gov/juvenile-court/juvenile-recovery-court
  - Email: <u>chris.thompson@clark.wa.gov</u>
  - Fax referral: 360-759-6620
  - Drop-off : JRC mailbox located at front desk

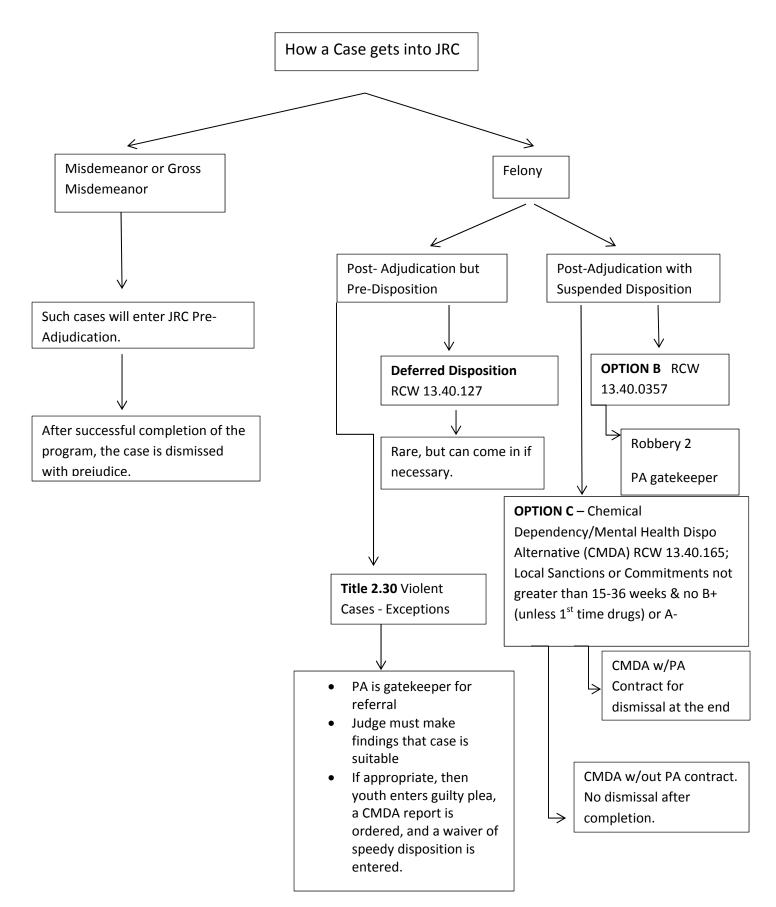
Referring party (attorney / probation) should instruct the youth and family to observe the next upcoming Juvenile Recovery Court session (Wednesdays at 4:00pm in Courtroom #2, Juvenile Court, 2<sup>nd</sup> floor)

- 2. JRC Program Coordinator will send a request to the Juvenile Program Manager overseeing JRC to provide a criminal background check from JCS database to help JRC Coordinator to assist with the screening process.
- 3. JRC Coordinator will conduct a brief pre-screen risk/needs assessment with the referred juvenile IF/WHEN a risk level is not already in the assessment.com system on the youth (currently using the Positive Achievement Change Tool - PACT) or if the prior PACT level was LOW prior to new referral/charge. JRC Coordinator will collaborate with Probation Counselors and Prosecutor's to update PACT with collateral info and strategies for interventions. Youth will be required to sign confidentiality releases with JRC team agencies in order to discuss status.
- 4. Simultaneously, referred youth will also need to complete a substance use disorder (SUD) assessment by a WA State certified behavioral health clinic as well as complete a CMDA (Chemical Dependency / Mental Health Disposition Assessment) report with Juvenile Probation staff. Youth are encouraged to sign releases of information for the JRC team to receive a copy of the assessment results.
- 5. JRC Coordinator will compile all the collateral information during the screening process from the risk assessment, enter into the court database and maintain a report listing all pending referrals including a brief summary (risk and SUD eval recommendations) and email out to the team as well as attach to each court docket for ongoing review/status.
- 6. JRC team will review each referral when the PACT risk assessment and SUD eval / CMDA reports is completed to make decision on whether candidate qualifies for the program. Referrals are typically discussed at the start of pre-court staffing each week.
- After a decision is made, the JRC Coordinator will notify the referring entity with the eligibility decision on each referred participant the following business day as well as update the decision in the court database. In the meantime, referred youth should maintain all other court dates as ordered.
- 8. If defendant is eligible, the assigned counsel will then review the program and all options with their client. If youth is interested, the assigned counsel requests to set case on for upcoming Wednesday JRC docket to enter all the necessary Change of Plea and all other necessary legal documentations for entrance into JRC (visit the Clark County Juvenile Court website for the most up-to-date versions of referral forms and opt in contracts: www.clark.wa.gov/juvenile-court/juvenile-recovery-court
- 9. All new participants at opt-in are given dates/times to conduct next program requirements: treatment and probation intakes.

## JUVENILE RECOVERY COURT REFERRAL FORM

# *K* Please fill out and place in the Recovery Court mailbox

Minor's Name:	F	Referral Date:		
Date of Birth: PACT Risk Assessmen	t Level: 🗌 Low 🗌	Moderate High		
Parent/Residing with:				
Address:				
Phone Number:				
Name of School:	Current Credits:	Attending: 🗌 Yes 🗌 No		
Suspended/Expelled: Yes No If suspen	ded/expelled, re-entry	y date:		
If yes, reason:				
Juvis Number: Referral #of case(s) b	eing referred to JRC:			
Next Hearing Date: In Detention: Y N				
Offense(s):				
Attorney/Phone/Email:				
Legal Incentive for entering JRC:				
Standard range for most serious offense:				
Name of Insurance provider:				
Substance Use Disorder Treatment:				
Assessment: Y N Diagnosis:		Dates:		
Recommendation:				
Outpatient: Y N Where:	Dates:	Outcome:		
Inpatient: Y N Where:	Dates:	Outcome:		
If not completed, what were barriers?				
Mental Health Issues: Y N If yes, Please of	explain:			
Diagnosis:	Medication(s)			
Counseling: (when and where):				
Strengths:				
Explain parental/guardian support:				
What in JRC interests you?				
<b>RECOVERY COURT SCREENING DECISION:</b>				
Screened by: Date:				



SUPERIOR COURT OF WASHINGTON COUNTY OF CLARK JUVENILE COURT STATE OF WASHINGTON Plaintiff, v. Respondent/Participant DOB:	SCOMIS NO			
1. My true name is:				
2. My age is: My date of birth is:				
<ol> <li>I understand I am accused or have pled guilty to the crime(s) of:</li> </ol>				
The standard range is: The maximum penalty is:				
CMDA Pre-Adjudicated CMDA Pre-Adjudicated	CMDA Post-Adjudication - Local Sanction CMDA Post-Adjudication - JRA			
ACKNOWLEDGMENT OF ADVICE	OF RIGHTS AND WAIVER OF RIGHTS			
<ul> <li>FOR PRE-ADJUDICATED MATTERS:</li> <li>1. Waiver of Speedy Arraignment (JuCR 7.6(a)): I understand I have the right to an arraignment within 14 days after the Information was filed. By signing this petition to enter Recovery Court, I agree to waive my right to a speedy arraignment.</li> </ul>				

- 2. Waiver of Speedy Trial (JuCR 7.8): If my matter is pre-adjudication, I understand that I have the right to be brought to trial within 60 days following my arraignment date if I am out of custody and within 30 days after my arraignment date if I am in custody. I further understand if I do not receive a trial within this time period, this case may be dismissed with prejudice unless I agree to waive this right. By signing this petition to enter Recovery Court, I hereby waive my right to a speedy trial until \_\_\_\_\_\_ and/or up to 36 months.
- 3. Stipulation to Facts in the Reports Admissibility of Reports (CrR 4.5(g), CrR 3.5, CrR 3.6): By signing this agreement, I wish to submit the case on the record. I understand this means that if I am terminated from the Recovery Court program, the Judge will read the police reports and other materials submitted by the prosecuting authority at the time of the termination hearing and, based solely upon that evidence; the Judge will decide if I am guilty or not guilty of the crime(s) charged herein. I understand it is very likely the Judge will find me guilty since the only evidence the Judge will consider are the reports and other materials submitted by the prosecutor. Further, I understand that if no laboratory test was performed, I stipulate to the admissibility of the results of the field test, if applicable. This includes, but is not limited to, any Portable Breath Test and/or any results of a field test for suspected drugs.

By stipulating to the facts, I am giving up my right to a Fact-Finding Hearing by a Judge, my right to hear and question witnesses who would testify against me, the right to call witnesses on my behalf, the right to present evidence on my behalf, and my right to testify, or not to testify, at the Fact-Finding hearing.

In addition, I understand I am giving up my right to a pre-trial hearing to determine the admissibility of any statement(s) made by me in this case. At that hearing I would have the right to offer evidence and confront witnesses with respect to any such statement(s), and the right to testify at such a hearing without waiving my right to remain silent at trial. I understand that I am stipulating to the admissibility of any such statement(s) and agreeing that the Judge may consider those statement(s) in deciding my guilt or innocence.

Further, I understand I have the right to a pre-trial hearing to determine the validity of any search or seizure in this case. I understand that, by signing this agreement, I am giving up my right to contest the validity of any search or seizure and agreeing that the Judge may consider any evidence seized in determining my guilt or innocence.

No one has made any threats or promises to persuade me to waive the above rights and to submit this case on the record.

#### **FOR POST-ADJUDICATION MATTERS**:

 Waiver of Speedy Disposition/Sentencing (JuCR 7.12(a)): I understand that I have a right pursuant to JuCR 7.12(a) to a speedy disposition (sentencing) within 14 days (if in custody) or within 21 days (if out of custody) from the time of my plea or admission. By signing this agreement, I hereby waive my right to a speedy disposition.

PARTICIPATION AGREEMENT: I, \_\_\_\_\_\_ (youth participant), understand and agree to the following terms and conditions of participation in the Juvenile Recovery Court Program:

(Initial below)

\_JUVENILE RECOVERY COURT (JRC) PROGRAM I understand that the Juvenile Recovery Court (JRC) Program is a minimum of thirty (30) weeks, but may be longer and that I must complete all phases and mandates of JRC Program, all of which have been explained to me, and the approval of JRC Team before I can graduate from the program. I agree to be in the

JUVENILE RECOVERY COURT PROGRAM CONTRACT - PAGE 2Revised 2/1/19WHITE: Court FileBLUE: New CounselGREEN: ProbationYELLOW: YouthPINK: PAGOLD: Counsel

program and comply with all of the requirements until successful completion and graduation, or until I am discharged, whether I choose to opt out voluntarily or I am terminated.

**NOTICE** - If I engage in any criminal act while in the program, I may be prosecuted for any new charge(s), and the new charge(s) may be the basis for my termination from the Juvenile Recovery Court Program. If I am not terminated from the JRC Program, the length of time I am in the program may be extended, and I may be ordered to complete additional tasks or requirements.

#### (Initial below)

- OBEY LAWS / REPORT POLICE CONTACT: I must obey all laws and must report any contact with law enforcement personnel to my JRC Probation Counselor within 24 hours. I understand and consent to have my personal information entered into the Clark County Law Enforcement system, commonly referred to as the "BOLO" system. My personal information will be used by the Recovery Court team for informational purposes only and will remain active in the "BOLO" system from the time I am accepted into JRC until my graduation, termination, or I opt out. I have read or had read to me this provision and I agree to and I understand this provision.
- \_ COURT HEARINGS: I will appear at all scheduled court hearings or as otherwise ordered by the judicial officer. If I cannot appear, I will maintain good communication through my attorney. I also understand that Failure to Appear at any hearing may result in a warrant for my arrest being issued. Additionally, I understand that a warrant for my arrest may be ordered at any time by a Judge or Court Commissioner upon showing of any violation of this agreement. I also understand my failure to attend any hearing may result in additional criminal charges being filed, known as Bail Jump.
- **DISCHARGE FROM JRC**: I understand and agree that I am voluntarily participating in the Juvenile Recovery Court Program, and can opt out of participating in the program at any time, as long as I am sanction free. I understand that if I opt out of JRC or I am terminated from the Recovery Court Program, anything I have said concerning my substance use while in the program cannot be used against me. In addition, I understand I will not be required to provide information about other people involved in illegal drug activity as a condition to remaining in the JRC Program, and I will not be required to admit to any additional criminal activity beyond the facts originally stipulated to as a condition to remaining in the JRC Program.
- **RELEASES OF INFORMATION** I agree to sign any and all releases necessary to monitor my progress in the Recovery Court Program. I understand that failure to sign off on any release of information can result in termination from the JRC Program. I further understand if I revoke or withdraw any previously signed releases, this can be a basis to terminate me from the Recovery Court Program.
- PROBATION / COURT ORDERS: I agree to abide by all conditions of my probation and comply with any court orders including but not limited JRC Sanctions and Order to Appear Orders, House Arrest Orders, Restitution Orders and No Contact Orders.
- **SEARCHES OF PERSON/HOME**: Upon request, I agree to submit to a search of my person, residence, vehicle or other personal property when asked by any JRC Probation Counselor or any other JRC affiliated officer.
- **FIREARMS**: I will inform the courts and my JRC probation counselor of any firearms in my residence and/or vehicle.

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 Revised 2/1/19

 WHITE: Court File
 BLUE: New Counsel
 GREEN: Probation
 YELLOW: Youth
 PINK: PA
 GOLD: Counsel

#### (Initial below)

LEGAL COURT COSTS/FINES/RESTITUTION: I understand that the Court can set restitution, if any, in an amount to be determined by agreement or by way of a hearing by the Probation Counselor or Juvenile Court Judge even though my case may be un-adjudicated. I understand that I will need to pay all legal and financial obligations, including but not limited to restitution, if any, before I can graduate.

**RESPONSES**: I understand the Juvenile Recovery Court will use a system of rewards to motivate progress and compliance as well as responses (sometimes called "sanctions") for noncompliance with this contract or court orders. Responses may include, but are not limited to:

- Return to earlier phase reporting
- Restarting JRC court sobriety time
- Increase in drug testing
- Writing assignments
- Attend other community events / prosocial activity
- Detention Alternative house arrest, community support, weekend reporting or extended weekend reporting

- Restorative Community Service
   Projects
- Longer time in phase or program
- Curfew adjustments
- Travel restrictions
- Attend community support groups
- Referral to additional services
- Juvenile Detention stays
- Termination of program

**EDUCATION**: I understand that I must be enrolled in and attend an educational/vocational program, and must comply with the mandatory school attendance provision of RCW 28A.225 and comply with school rules.

**DRUG / ALCOHOL:** I will not possess or use alcohol or drugs unless lawfully prescribed by a physician. I agree to take prescription medication only as prescribed, and will only use over the counter medication per the recommended dosage on the package. For any medication prescribed or any over-the-counter medication I consume, I will notify my treatment provider and my probation counselor within 24 hours of taking any medication(s). I also understand that I will not buy, sell or possess any synthetic substances that have become a substitute for marijuana and other drugs.

**RANDOM DRUG/ALCOHOL TEST:** I understand that <u>I will be required to check the Drug</u> <u>Testing Color Line Daily</u>. I agree to providing observed urine, breath or other drug tests whenever requested to do so by the treatment program staff, the judicial officer, or any Juvenile Recovery Court team member. I understand that any attempt on my part to alter any type of substance testing, either through the use of a device, consumption of a masking agent, dilution or any other means may result in violations/sanctions from the court. I understand that any missed UA tests or refusal will result in a new court clean date and may have additional consequences.

**TREATMENT / SERVICES:** I agree to complete any diagnostic evaluations required and will enter into and successfully complete all treatment deemed necessary by the court/treatment counselor and /or probation counselor. I will abide by all rules/regulations set by the treatment agency and all conditions and requirements ordered by the court. I agree to contact my treatment agency and Probation Counselor as directed in the event I am ill or unsuccessfully discharged I further understand that if I am discharged from any treatment agency unsuccessfully, I will report that information to my probation counselor within 24 hours and report to the next JRC docket to explain the circumstances. I understand that if I am ill, I will need to provided medical documentation or have parent/guardian call my treatment provider at least 24 hours in advance or missed appointment will not be excused.

- RESIDENCE / TRAVEL / OVERNIGHTS / PHONE: I must reside in a Court/Probation Counselor-approved residence within Clark County, Washington. Without first notifying and obtaining permission from my Probation Counselor and/or the Court <u>I will not</u>: 1) change residences; 2) spend the night at any address other than the one that has been approved by the court; 3) travel out of Clark County. I also agree to immediately contact my treatment case manager and probation counselor if my phone number changes or becomes disconnected.
- ASSOCIATION: I will not associate with convicted felons, any person on probation or parole, or any person using/possessing any controlled substance or alcohol. Furthermore, I agree to not have any sexual, intimate, or social contact with any person currently under Juvenile Court, Superior Court, District Court, or Department of Corrections' supervision in this or any other jurisdiction, or those with a felony conviction (excluding Recovery Court hearings, treatment, or support meetings.
- **HONESTY:** I will report truthfully to the court and to all JRC team members as I understand that honesty is a cornerstone of Recovery Court and builds a foundation of trust and respect.

#### IF I AM TERMINATED OR OPT OUT OF THE RECOVERY COURT PROGRAM, I UNDERSTAND:

 A. <u>Pre-adjudication matters</u>: My matter is still pending prosecution. Based upon the above waivers, the Recovery Court Judge will evaluate the police reports, plus any additional information provided by the prosecuting authority and/or probation department, and will determine my guilt or innocence on that information alone. If the Court finds me guilty of such crime (s), the court will enter a disposition order.

B. <u>Post-adjudication matters</u>: While in the Recovery Court Program, the disposition on the criminal case(s) will be delayed. If I fail to complete the Recovery Court Program, I will be immediately sentenced based upon my original crime(s) and/or probation violation(s).

2. I understand that I have a right to ask for a termination hearing as well as request a different judge to hear the matter.

#### I UNDERSTAND:

In executing this contract I, the undersigned, understand that violation of this contract or any other Juvenile Recovery Court rules may result in sanction(s) and/or termination from the JRC Program. I further understand that I must meet all and comply with the Recovery Court requirements until I graduate from the JRC Program.

I have read or have had read to me the above provisions and I understand this agreement. My attorney has explained this agreement to me and I understand the rights I waive and do hereby knowingly waive these rights and wish to enter this Recovery Court Contract. I have no further questions to ask.

Dated: \_\_\_\_\_

Respondent/Participant

I have read and discussed this Recovery Court Contract with the respondent and believe the respondent is competent and fully understand the contract terms.

Dated: \_\_\_\_\_

Christina Phelan, WSBA#45274, Attorney for Respondent

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Approved for Entry:

Dated: \_\_\_\_\_

Deputy Prosecuting Attorney / WSBA#

#### PARENT/GUARDIAN AGREEMENT

I am the parent/guardian of the above-named youth. I have read the above agreement and agree Juvenile Recovery Court is in the best interest of my child/ward. I agree to report any violations of this agreement to the Recovery Court team by contacting my child's Probation Counselor,

\_, within 24 hours at (564) 397-\_\_\_\_\_. I agree to actively participate in the Recovery Court program and agree to support my child/ward in this program.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

#### EXTENTION OF JURISDICTION

The Respondent will turn 18 on \_\_\_\_\_, which IS / IS NOT during the course of this contract. Sufficient reason exists to extend jurisdiction through and including \_\_\_\_\_, 20\_\_\_\_, pursuant to RCW 13.40.300. The Court hereby ORDERS

that jurisdiction be extended to the above date.

#### **Chemical Dependency / Mental Health Disposition Alternative**

The court finds that the respondent, although may have not pleaded guilty or been sentenced, meets all other statutory criteria under the Chemical Dependency / Mental Health Disposition Alternative (CMDA) in RCW 13.40.165 (which is incorporated by reference). The respondent has undergone a CMDA assessment, and has been found to be chemically dependent and/or substance abusing, and is amenable to treatment. While a CMDA disposition would be possible and appropriate for this youth, the Court finds that the respondent and the community may benefit more from the respondent's participation in Clark County's Juvenile Recovery Court Program. Treatment and services offered within the Juvenile Recovery Court program will be comparable, and will exceed, the requirements of a CMDA disposition under RCW 13.40.165. In making this ruling, the Court has reviewed and considered the information contained in the CMDA report, the chemical dependency evaluation, an examination of the youth, and the victim's opinion (if applies) as to whether the offender should be allowed to participate in this programming.

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8	SUPERIOR COURT OF WASHINGTON COUNTY OF CLARK				
9	JUVENILE COURT	SCOMIS NO			
10	STATE OF WASHINGTON	JUVENILE NO			
11	Plaintiff, v.	REFERRAL NO			
12		ORDER SUBSTITUTING ATTORNEY			
	Respondent/Participant				
13	DOB:	CLERK'S ACTION REQUIRED			
14		DED			
15 16	IS       IS         IT IS HEREBY ORDERED that CHRISTINA PHELAN / PHELAN LAW OFFICE				
10	is substituted for	, as attorney of record from			
18	this date forward for the above-named defendan	t upon entering the Juvenile Recovery Court			
19	Program. Participant may contact his/her attorney at 904 Esther Street, Vancouver, WA 98660				
20	or by phone 360-750-8750.				
21	· ·				
22					
23	DATED this	_ day of, 20			
24					
25		SUPERIOR COURT JUDGE			
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JUVENILE RECOVERY COURT Order Substituting Attorney JRC / 2-1-19