

# **DEVELOPING AND IMPLEMENTING A DRUG TREATMENT COURT IN MICHIGAN**



**PROVIDED BY THE MICHIGAN SUPREME COURT  
STATE COURT ADMINISTRATIVE OFFICE**

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# INTRODUCTION

Drug treatment courts (also known as specialty courts and problem solving courts) use a therapeutic approach to address the substance use disorders of nonviolent offenders. The underlying belief in this approach is that drug and/or alcohol addicted offenders are likely to reoffend unless they are equipped with the skills to address their substance use disorder.

Drug treatment courts are unique in that a team of professionals works with each offender through treatment, intensive judicial supervision, incentives, sanctions, drug and alcohol testing, links to ancillary services in the community, and other individualized services. Drug court programs are holistic in nature and should provide each participant with a continuum of services to deal with the legal and personal struggles presented by a substance use disorder. In addition to an offender's personal motivation to improve their health and quality of life, many court programs provide a legal incentive, often a deferred judgment of guilt or delayed sentence, to encourage participation in the programs.

The goals of drug courts are clear: to reduce drug and alcohol-related crime, to reduce recidivism among drug and alcohol offenders, to save money and reduce court congestion, and – perhaps most importantly – to provide offenders with a new outlook on life and commitment to sobriety.

This manual was created using information from a variety of sources, most notably *The Drug Court Judicial Benchbook*, published by the National Drug Court Institute (NDCI), Michigan statutes, and the court type-specific principles, strategies, and components for problem-solving courts, promulgated by the NDCI. See the links section on this page for more information.

For specific information regarding drug treatment courts in Michigan, see appendix A, the enabling legislation (Public Act 224 of 2004 and Public Act 335 of 2012), or visit the Michigan State Court Administrative Office website. See the links section on the right side of this page for web addresses.

## Links & Resources

State Court Administrative Office  
Problem-Solving Courts Website,  
available at

<http://courts.michigan.gov/Administration/admin/op/problem-solving-courts/Pages/default.aspx>

*The Drug Court Judicial Benchbook*,  
published by the National Drug Court  
Institute, available at

<http://www.ndci.org/publications/more-publications/-drug-court-judicial-benchbook>

*Defining Drug Courts: The Ten Key  
Components*, published by the  
Department of Justice, Bureau of  
Justice Assistance, available at

<http://www.ojp.usdoj.gov/BJA/grant/DrugCourts/DefiningDC.pdf>

*The Ten Guiding Principles of DWI  
Courts*, published by the National Drug  
Court Institute, available at

[https://dccmis.micourt.org/resources/M/NDCI\\_Guiding\\_Principles\\_of\\_DWI\\_Court.pdf](https://dccmis.micourt.org/resources/M/NDCI_Guiding_Principles_of_DWI_Court.pdf)

*Sixteen Strategies for Juvenile Drug  
Courts*, published by the Department of  
Justice, Bureau of Justice Assistance,  
available at

[https://dccmis.micourt.org/resources/M/NDCI\\_Juv%20Drug%20Courts%2016%20Strategies.pdf](https://dccmis.micourt.org/resources/M/NDCI_Juv%20Drug%20Courts%2016%20Strategies.pdf)

*Family Dependency Courts: Addressing  
Child Abuse and Neglect Cases Using  
the Drug Court Model*, published by the  
Department of Justice, Bureau of  
Justice Assistance, available at

<https://www.ncjrs.gov/pdffiles1/bja/206809.pdf>

*The Ten Key Components for Veterans  
Treatment Courts*, published by the  
National Association of Drug Court  
Professionals, available at

<http://www.justiceforvets.org/sites/default/files/files/Ten%20Key%20Components%20of%20Veterans%20Treatment%20Courts%20.pdf>

# ASSESSING NEED AND ASSEMBLING THE TEAM

Because most drug courts are implemented to reduce docket crowding, to lower jail bed days served, to reduce recidivism related to drug/alcohol use, and to address low treatment retention rates, a first step should be to determine if these problems exist in your jurisdiction. This may require referencing caseload data to determine what percentage of your caseload is occupied by repeat drug/alcohol offenders, examining your local jail's booking information, and analyzing probation violation statistics.

Once the need for a drug court has been established, many courts choose to begin by establishing a steering committee. Drug courts require buy-in and support of the court, community, law enforcement officials, and political leaders. These stakeholders can help to determine the need for a drug court and potential program capacity, and can provide valuable links to necessary community resources. Ultimately, members of a steering committee should have the authority to enter into Memoranda of Understanding in order to define the authority of the drug court and the roles and responsibilities of the respective parties. The steering committee can also help select the drug court team. Once the program has been established, the steering committee can continue to meet to review program performance and address policy or procedural changes.

## Drug Court Team Members

- Judge(s)
- Program Coordinator
- Prosecuting Attorney
- Defense Attorney
- Probation Officers or Case Managers
- Treatment Providers
- Law Enforcement
- Local Substance Abuse Coordinating Agency or Health Department
- Representatives from Community Organizations

A drug court team is a group of professionals who are primarily responsible for overseeing operations of the program and managing supervision of the drug court participants. The judge is the leader of the drug court team, and other members should include a program coordinator, representation from the prosecutor's office, a member of the local defense bar, probation officers or case managers, treatment provider(s), local law enforcement, and representatives from local coordinating agencies or community organizations. It is important to consider how these positions will be funded. Some team members may volunteer their services, while others will be paid through a contract (MCL 600.1063). Some might be members of the court or county staff (paid by the local funding unit).

Your drug court team may want to come to an agreement with representatives of the prosecutor's office early in planning your program. It is essential to have the prosecutor's office support the drug court program and for the team to have an understanding of the types of cases that will be considered for eligibility, particularly

if your court wishes to offer deferred judgments or delays of sentencing. This understanding should be documented in the team's Memorandum of Understanding pursuant to MCL 600.1062.

When reviewing caseload statistics, probation violation data, and repeat offense statistics, pay special attention to the specific types of offenses or offender characteristics that are most common, as this will likely become your target population. Some drug courts, such as juvenile courts, adult courts, men's courts, or women's courts, focus on specific offender characteristics. Others, such as DWI courts and family dependency courts, focus on specific offenses. In addressing offender or offense characteristics, it is important to remember that all drug treatment courts should be limited to drug and alcohol offenses or offenses related to substance use disorders, such as breaking and entering for the purpose of obtaining drug money. To determine a caseload estimate for your program, note the number of offenders who would be eligible for the program.

## Statewide Resources

### Michigan Works!

Call 1.800.285. WORKS to be connected to your local service center.

### Michigan Department of Labor & Economic Growth

A listing of adult education and GED programs in Michigan is available at [http://michigan.gov/mdcd/0,4611,7-122-1680\\_2798\\_2801---,00.html](http://michigan.gov/mdcd/0,4611,7-122-1680_2798_2801---,00.html)

### Michigan Housing Development Authority

MSHDA works to create and preserve safe and affordable housing. Visit <http://www.michigan.gov/mshda/> for more information.

### Michigan Department of Transportation

Information on public transportation programs can be found at <http://michigan.gov/mdot/0,4616,7-151-11056---,00.html>

### Alcoholics Anonymous

Information on local offices and meetings in Michigan is available at [http://www.aa.org/lang/en/central\\_offices.cfm?origpage=373&cmd=getgroups&state=Michigan&country=United%20States](http://www.aa.org/lang/en/central_offices.cfm?origpage=373&cmd=getgroups&state=Michigan&country=United%20States)

### Narcotics Anonymous

Information on local offices and meetings in Michigan is available at <http://www.michigan-na.org/>

### SMART Recovery

Information on the program and meetings in your community is available at <http://www.smartrecovery.org/>

### Michigan Assistance and Referral Service (MDCH and MDHS)

This service provides information for families that may need assistance from state programs. Visit <http://www.mfia.state.mi.us/mars/> for more information.

### MSU Extension Offices

More information on available programs and locations is available at <http://msue.anr.msu.edu/msue/home>

# CONSIDERING COMMUNITY RESOURCES

In addition to requiring substance abuse treatment, regular court review hearings, and adherence to program requirements, many drug court programs offer ancillary services to their participants. These resources are sometimes a required part of the program, such as with community-based support groups, but are sometimes specific to a participant based on need. For example, a participant who is unemployed may be referred to vocational training.

As you are assembling your drug court team and beginning to develop your program, considering community resources is beneficial. Does your community have a twelve-step support group, such as Alcoholics Anonymous or SMART Recovery? Does your team have knowledge about non-faith-based 12-step options? Are there specific support groups for men, women, different religious backgrounds, users of drugs other than alcohol, or other diversity-oriented groups? Is there a variety of treatment providers and types of treatment available ranging from services for those who need residential treatment to those who need outpatient treatment? Is there a GED program or are there vocational classes in your community? Researching and seeking out these organizations in order to form partnerships will help you to offer a thorough, holistic plan to your participants.

As you begin to form these partnerships, keep in mind how the various community-based organizations will fit into your team and program. You should consider things like community demographics, distance or travel concerns, your target population, and the level of supervision. For example, there may be an excellent community-based support group in your county, but if the majority of your participants live 20 or more miles from the group's location, and lack adequate transportation, the group may not be the best choice for your program. Or, perhaps a new drug court in a community with a major methamphetamine problem should consider partnering with a dental clinic, while such a partnership is not necessary in a DWI court.

Rather than make specific referrals, many drug courts provide a list of community resources available to their participants. Even these general referrals require your drug court team to connect and share information with these organizations and their stakeholders. Sometimes, this will require the judge or program coordinator to promote the new drug court and its potential benefits within in the community.

# DRAFTING MEMORANDA OF UNDERSTANDING & LOCAL ADMINISTRATIVE ORDERS

## MOU

A memorandum of understanding (MOU) describes the roles and responsibilities of each team member of a drug court program including, but not limited to, the county's prosecuting attorney (if the court wishes to offer delays of sentence or deferred judgments) or a local prosecuting attorney, judge, defense attorney, and treatment provider(s). A memorandum of understanding among these key team members is required by MCL 600.1062. You should decide whether to use a single MOU signed and dated by all team members, or separate MOUs for each team member. The duration and terms of the MOU should be included. A sample MOU can be found in Appendix B.

One of the terms that may be beneficial to include is which team member is responsible for updating and inputting each section of the required minimum standard data set entered into the Drug Court Case Management Information System (DCCMIS). For example, will treatment providers enter data about treatment sessions and treatment compliance directly into DCCMIS or will they mail it to the court and depend upon the court to enter it? Minimum standard data requirements for each drug court type can be found on the State Court Administrative Office website.

## LAO

A trial court may issue a local administrative order (LAO) that governs the internal management of the court. The SCAO has model LAOs for each type of drug court available on its website to assist courts in complying with MCL 600.1060 et seq. (PA 224 of 2004, Michigan's drug court enabling legislation).

Visit the SCAO website at <http://courts.michigan.gov/administration/admin/op/problem-solving-courts/drug/pages/default.aspx> for more information. Copies of the model LAOs for an adult treatment court, DWI/Sobriety court, Juvenile Drug Court, and Family Dependency Court are included in Appendix C.

# GRANT FUNDING

Currently, the SCAO distributes funds for three grant programs, one state-funded and two federally-funded. The SCAO also administers the Urban Drug Court Initiative, a per-participant funding scheme in four specific locations in the state. Each of the three grant programs has different reporting requirements, reimbursable expenses, and target population requirements. More information on these grant programs can be found on the SCAO website at <http://courts.michigan.gov/administration/admin/op/problem-solving-courts/pages/grants-and-funding.aspx>. Grant reporting requirements, forms, and contact information can be found at <http://courts.michigan.gov/administration/admin/op/problem-solving-courts/pages/forms-and-reporting.aspx>.

## STATE GRANT PROGRAMS

### Michigan Drug Court Grant Program (MDCGP)

Funding for the Michigan Drug Court Grant Program (MDCGP) comes from court costs and assessments deposited into a restricted fund called the Drug Treatment Court Fund, and general fund dollars. Applications for this program are submitted by local courts to the SCAO each year. Any drug, DWI, juvenile, or family dependency court, operational or in the planning stage, may apply for funding. Existing programs must have an approved LAO, signed MOUs, and be recognized by the SCAO as a drug court (unless applying for a planning grant) to be eligible.

## FEDERAL PROGRAMS

### Byrne Justice Assistance Grant (Byrne JAG)

Funds for the Byrne JAG program come from the Budget and Financial Services Division of the Michigan State Police and are appropriated through an interagency agreement with the SCAO. Applications are accepted each year. For this program, the SCAO is the grant recipient and the local courts are the subrecipients of the funds. To be eligible, a program must target presumptive cell or straddle cell participants based upon state sentencing guidelines. Allowable expenses for reimbursement are somewhat similar to the MDCGP, but courts are also bound by the guidelines listed in the OMB Circular A-87<sup>1</sup> and the OJP Financial Guide.<sup>2</sup>

### Office of Highway Safety Planning (OHSP)

The federal Office of Highway Safety Planning provides yet another funding opportunity. For this grant program, the SCAO is the grant recipient and the local courts are the subrecipients of funding. Applications are accepted in each year. This program is exclusively for DWI court programs and funding varies annually. To be eligible, a program must be a new DWI court or a current DWI court seeking funding to expand its program. Programs may be reimbursed for many of the same expenses as the MDCGP, but again must also adhere to the guidelines listed in the OMB Circular A-87 and the OJP Financial Guide.

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<sup>1</sup> [http://www.whitehouse.gov/omb/circulars/a087/a87\\_2004.pdf](http://www.whitehouse.gov/omb/circulars/a087/a87_2004.pdf)

<sup>2</sup> [http://ema.ohio.gov/Documents/CitizenCorpProgramGrant/EMA\\_USDOJ%20Financial%20Guide.pdf](http://ema.ohio.gov/Documents/CitizenCorpProgramGrant/EMA_USDOJ%20Financial%20Guide.pdf)

# SUSTAINABILITY OF DRUG COURT PROGRAMS

Although grant funds may be available, drug court programs should be aware that these are competitive programs, not entitlements, and that grant funding may not always be available. Before implementing a drug court program, your team should think about how it can be sustained long-term if grant funding is no longer an option.

Support from local businesses and county or city funding sources should be examined. For example, some local police departments offer free preliminary breath tests to participants of drug court. Occasionally, local businesses offer gift cards or discounts that can be used as participant incentives. Keeping track of program success, cost-benefit analyses, and other research will be crucial when persuading these funding sources to donate or dedicate funds to your program. Facts and numbers are helpful to demonstrate why your program is worthy of financial support. The Drug Court Case Management Information System (DCCMIS) and Drug Court Analysis System (DCAS) can be used to develop thorough statistical reports on your program.

## Funding Resources

- [www.501c3.org](http://www.501c3.org) is an informational website published and maintained by the Foundation Group.
- Additional information regarding 501(c)(3) foundations can be found at <https://inside.dykema.com/drugcourtfoundations> A username and password for this site can be obtained by contacting SCAO.
- Some federal funding opportunities (these vary by fiscal year and grant type), collected by the National Criminal Justice Reference Service, can be found by visiting [https://www.ncjrs.gov/spotlight/drug\\_courts/grants.html](https://www.ncjrs.gov/spotlight/drug_courts/grants.html)
- The Substance Abuse and Mental Health Services Administration also distributes grant funds. Visit <http://www.samhsa.gov/grants/> for more information.

Another avenue to consider in funding drug treatment court operations is formation of a 501(c)(3) by persons or entities outside the court. This is a portion of the US Internal Revenue Code specific to public charities and foundations. These entities are tax exempt and donations toward them are tax deductible. Many drug courts in Michigan have developed a non-profit foundation to promote and support drug court operations. The SCAO can help you to contact some of these courts if you have more questions.

District court drug court programs can also be supported in part by filing fees. Five dollars of the local share of filing fees can be earmarked for local drug treatment court funding per MCL 600.8371.

An additional option to consider in funding a drug court is whether to charge participation fees. Some courts charge a small program fee. Others charge participants for services such as therapy or drug tests, in an effort to offset costs.



# TRAINING

The Drug Court Planning Initiative (DCPI) is a training program sponsored by the National Drug Court Institute (NDCI). DCPI is designed to assist jurisdictions in the planning and development of drug court programs. Each interactive DCPI training session is designed to familiarize participants with the building blocks of a drug court. Training participants have an opportunity to learn from and work with actual drug court practitioners and subject-matter experts throughout the DCPI process and will be afforded numerous opportunities to network with their peers. For more information about this training, visit <http://www.ndcrc.org/node/1204>. The NDCI home page also provides links to a variety of training resources and role-specific information. Visit the NDCI website at <http://www.ndci.org>.

Other training opportunities are provided by the National Association of Drug Court Professionals (NADCP), the Michigan Association of Drug Court Professionals (MADCP), and through the SCAO. MADCP hosts an annual two-day conference consisting of plenary speakers, multiple tracks of break-out sessions focusing on a wide variety of specialized training topics, and the latest in research and best practices. Certain types of grant funding can be used to pay for attendance at the MADCP conference. Additionally, NADCP hosts an annual conference, in a different city each year. The SCAO provides training on DCCMIS and DCAS, training sessions on goals and grant writing, an annual DCCMIS User Conference, as well as various seminars throughout the year.

The National Drug Court Training and Technical Assistance Program (NDCTTAP) available through the Center for Court Innovation, also provides an extensive listing of resources that have been created and shared by existing drug courts. Resources for various types of problem-solving courts are available, and include information and sample documents for nearly every aspect of a drug court program. Visit <http://www.drugcourtta.org/> for more information and resources

The SCAO website also contains links to training manuals and resources. Visit <http://courts.michigan.gov/administration/admin/op/problem-solving-courts/drug/pages/default.aspx>. Contact the SCAO if you have further questions about training opportunities.

# DRUG COURT OPERATIONS: ESTABLISHING YOUR MISSION & GOALS

A mission statement should clarify the goals and values of the court. One way to craft a mission statement is to consider the reasons why you are establishing a drug court in your community. Ask yourself why the community needs a drug court, and what benefits the program will provide. For example, most members of the steering committee or drug court team would probably mention a goal of reducing crime. A judge might want to focus on reducing docket congestion, while a sheriff might want to control jail overcrowding. By allowing the team to collaborate and share their individual goals for the program, general themes will develop, such as “increase public safety.” These overarching themes can be incorporated into the program’s mission to create a broad statement reflecting the goals of the program and the community’s intent in establishing it.

By developing a mission statement, the team has begun to identify the goals and objectives for the drug court. When constructing a mission statement and goals, the team should not lose sight of accountability. Individual goals and the general themes reflected in a mission statement should be attainable and measurable, and focus on critical issues for the drug court. Establishing measurable goals will also aid in data collection and grant writing. For example, “reduce substance abuse” is an important area of focus for drug courts, but as is, that goal is difficult to track and measure. Look at the things your team plans to do to reduce substance abuse, like increasing accountability through drug testing, requiring attendance at community-based support groups, and incorporating treatment into all phases of the program. So, while your ultimate goal might be to reduce substance abuse, you can track that through a series of objectives. For example, “require at least four random drug tests per week for Phase 1 participants” can be easily measured using DCCMIS and DCAS, to ensure that your program is functioning as planned. Or, you might use DCCMIS and DCAS to track attendance at community-based support groups for a goal of “require attendance at 90 12-step meetings in 90 days for new participants.” Think about the ways your program components will help you to achieve the overarching themes in your mission statement.

Some goals may require a more qualitative measurement than data-driven study. For example, perhaps your court wishes to implement a risk and needs assessment to help determine the level of service each participant needs. This goal can be measured relatively easily by determining whether or not such an assessment tool was implemented, but consider what other program objectives can be addressed by establishing this goal. You may be able to track the success of high-risk participants in the program versus that of low-risk, and eventually make systemic changes based upon the results. In other words, this one-time goal should fit into the larger picture of the program’s mission statement and ongoing goals.

## Creating Measurable Drug Court Goals

When your team determines its goals, keep in mind that you will want clearly-defined results to track the program’s progress. Measurable goals (and their resulting data) can be helpful in grant writing and program evaluation.

### **Theme in Mission Statement:**

Improve employment opportunities for drug court participants.

**Non-Measurable Goal:** Make referrals to GED testing and education services.

**Measurable Goal:** Refer all participants without a GED or high school diploma to GED education and testing (*note that this goal could be easily measured by tracking education level at admission and ancillary services referrals while in the program*).

### **Theme in Mission Statement:**

Reduce substance abuse.

**Non-Measurable Goal:** Frequent and random drug and alcohol testing to prevent use and relapse.

**Measurable Goal:** Reduce number of overall positive tests by 10% from the 2010 rate of 31% positive (*this goal can be measured by tracking total drug tests and total number of positive tests in DCCMIS and DCAS*).

The SCAO offers workshops to help drug court teams in writing grant applications, including measurable goals. Watch for announcements.

# ELIGIBILITY CRITERIA, REFERRAL & SCREENING

It is important to establish clear, objective, and specific eligibility criteria for your drug court. Requirements that are too vague can lead to unintentionally disparate treatment, or perceptions that the program is unfair. Defendants who meet the definition of “violent offender” under PA 224 of 2004, MCL 600.106, are not eligible for drug court in Michigan. Beyond statutory criteria, however, your team should consider many other issues in determining the target population for the program. Factors to consider might include the nature of the current offense, past offense history, drug of choice, residency, and whether treatment resources are available to meet the offender’s needs. For example, individuals who have serious medical or mental health issues may be denied entry to the drug court. Some programs target a specific “subset” of the drug court population; for example, courts in a geographic area that has a problem with a specific drug might target users of that drug.

## Potential Drug Court Eligibility Criteria

- Nature of Offense
- Past Offense History
- Age of Offender
- Medical or Mental Health Issues
- Drug of Choice
- Residency
- Possible Transportation Restrictions
- Treatment Availability

Once you have established clear eligibility criteria, potential drug court participants must be identified. The referral process is a cursory examination to determine that an offense is one that is eligible for the program and that the offender fits basic program criteria. Checking the Law Enforcement Information Network (LEIN) may be necessary at this point or may happen during screening. An individual or multiple individuals must be designated to identify offenders who may be appropriate for the program, and a system for referring those identified to the screening step must be established.

Although a drug court candidate’s offense may be compatible with the eligibility guidelines for your program and he or she may fit with other basic requirements of eligibility, the offender may not be suitable for your program. The screening process will assist your team in narrowing the pool of candidates to those eligible

and appropriate for your program based upon their needs and the services your program offers. Although not as comprehensive as an assessment, screening involves interviewing the candidate to determine if there is an alcohol or drug use problem or mental illness, and that the offender meets the program’s legal eligibility criteria. Many programs utilize a formal screening instrument. A list of screening instruments and resources provided by the National Drug Court Institute is included in Appendix D. Your program should designate a team member to conduct the screening and if a screening instrument is utilized, this team member may need to be trained in administering the instrument. This is also a good time to gauge the candidate’s interest in the program and to explain the program to him or her.

The screening process can be an ideal time to develop a comparison group to measure your participants against. You may choose to create one comparison group comprised of all those who met the basic requirements of your program but were found ineligible upon screening, or you may choose to create multiple comparison groups, each specific to the reason the individuals were not admitted to your program. The latter of these options will require a larger number of participant referrals and, therefore, is particularly well suited to large programs. All individuals referred to screening must be entered into the statewide Drug Court Case Management Information System (DCCMIS) and those not accepted into your program can be maintained as comparison group participants within the database.

# ASSESSMENT

While a candidate may seem appropriate for your program based upon screening information, if the candidate does not have a substance use disorder, he or she is not a drug court candidate as defined by MCL 600.1060(c). Drug abuse or dependency is a requirement of participant eligibility pursuant to MCL 600.1060(c) and 600.1068(a). Your program will need to determine what assessment instrument or method will be used to determine a Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) diagnosis and who will perform the assessment. This may require determining necessary licensure for the assessment and hiring or contracting with a licensed professional. A list of assessment instruments can be found in Appendix E.

Your team will also need to utilize an assessment tool that will determine what type of treatment participants will receive. Nationally, the American Society of Addiction Medicine (ASAM) placement criteria are the most commonly used set of guidelines for placement of substance use disorder patients. ASAM provides five levels of care ranging from early intervention to medically-managed intensive inpatient treatment and recommendations for staffing, settings, and other treatment-related considerations. For more information about ASAM, visit <http://www.asam.org>.

A criminogenic needs assessment should also be conducted before admission. The National Association of Drug Court Professionals (NADCP) published *Principles of Evidence-Based Sentencing and Dispositional Reform*. This publication discusses the importance of identifying criminogenic risk and psychosocial needs of offenders and using this information to build an individualized drug court plan. Some of the high risk criminogenic factors include young age at time of treatment, early onset of substance use and delinquency, previous criminal activity, and prior unsuccessful treatment attempts. High risk psychosocial factors include compulsive addiction to drugs or alcohol, mental illness, chronic medical conditions, and illiteracy. Research has shown that high criminogenic risk and psychosocial needs individuals require a more intensive treatment program to achieve success. However, subjecting low risk and low needs individuals to the same intensive treatment can be ineffective or even harmful to drug court participants. Additionally, it utilizes scarce resources in a counterproductive manner. Hence, NADCP made the recommendation that programs keep high-risk and low-risk offenders in separate tracks or separate programs to avoid exposing low-risk offenders to antisocial peer influences or worsening their prognosis. A popular assessment tool is the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS). COMPAS assesses risk and needs factors in correctional populations and aids staff in determining how to place offenders in the community. COMPAS also assists drug courts in designing case management support systems for offenders. For more information about COMPAS, visit <http://www.northpointeinc.com>.

## Sample Admission Materials

You do not have to start from scratch when developing forms and policies. A number of resources are available, and other drug courts may be willing to share their materials to help you get started. Focus on creating forms that meet the needs of your program and your participants. Aim for plain language and clearly spell out expectations and consequences. It is important that forms expressly state any rights a participant may be waiving, while also explaining what rights they do have.

Some courts also opt to develop brochures that explain the drug court program to local law enforcement or members of the bar. These publications should explain the positive impact a drug court program can have on the court system and the public.

The National Drug Court Resource Center has a variety of sample forms available. For more information, visit [http://www.ndcrc.org/search/apachesolr\\_search](http://www.ndcrc.org/search/apachesolr_search)

The Michigan Association of Drug Court Professionals provides some sample forms on its website. Visit <http://madcp.dreamhosters.com/sample-zone> for more information.

Contact the SCAO with specific questions or help finding sample forms.

# ADMISSION

Admission decisions are usually a collaborative effort involving input from the judge, case managers, treatment providers, prosecuting and defense attorneys, and any other team members who have had contact with the candidate. The judge and prosecutor should collaborate to establish the admission criteria, which includes legal and clinical eligibility. The prosecutor may be the gatekeeper for admission into the program based on legal criteria; however, the judge makes the final decision whether to accept the participant into the program. Admission should be in the best interest of the candidate and the best interest of the court. Once an admission decision has been made, admitted participants may be granted formal admission at a drug court review hearing. Remember that candidates denied admission can be monitored in a comparison group through DCCMIS. The comparison group will allow you to study those defendants that receive drug court intervention against those who participate in traditional probation.

Another factor to consider in admitting a candidate to drug court is what approach the court will take with regard to judgment and sentencing. Some courts admit participants on a defer/delay approach, in which the participant has the opportunity to have his or her charge reduced or dismissed, or the sentencing delayed based on participation or success in drug court. Other courts use a post-sentence model, in which participants are sentenced into drug court as a condition of probation, and in which entering drug court may save the participant up-front jail time. Still other programs use a mix of the two approaches, depending on the type of offense.

Your team should provide several documents to newly admitted participants. First, all participants must read and sign a consent form waiving their right to attorney representation, and also agree to follow program rules. Often, a drug court “contract” encompasses all of the requirements and expectations of the program, as well as any promises made to the defendant in terms of the charge or sentence. All participants should be provided a copy of the relevant sections of Health Insurance Portability and Accountability Act (HIPAA) and relevant sections of the Code of Federal Regulations (42 CFR Part 2). To facilitate communication among team members regarding substance abuse treatment information, participants will also need to waive their confidentiality rights. If your program has developed a participant handbook or incentives and sanctions chart, has rules about appropriate courtroom attire and demeanor, gives appointment books to participants, or supplies participants with an address book or telephone number information sheet, these items should also be distributed at admission. Sample forms are available by visiting the links provided at left, and also in Appendix F.

# TREATMENT

Substance abuse is common in the criminal justice system. Nearly 80% of adult offenders have some level of substance abuse involvement, meaning they (1) were charged with a drug/alcohol offense; (2) were intoxicated at the time of the offense; (3) reported that the offense was committed to support a drug habit; or (4) have a significant history of substance abuse.<sup>3</sup> Offenders who continue to abuse alcohol or other drugs are much more likely – two to four times – to engage in recidivist criminal activities than those who abstain.<sup>4</sup> A primary goal of drug court, therefore, should be to ensure the offender complies with and engages in treatment obligations.

Programs vary with regard to the expected time frame between admission to drug court and the first substance use disorder treatment session. An achievable goal is to set this time frame at a two week maximum, meaning that a drug court participant has his or her first session with a treatment provider within two weeks of being admitted to drug court. The appropriate level of care should be determined by treatment professionals through the use of a placement instrument such as the American Society of Addiction Medicine (ASAM) guidelines. An individualized treatment plan should be developed for each participant. These plans should take into account general factors related to the participant's clinical needs, prognostic risks, and personal strengths and resources. Given that treatment modalities are determined by these individual risks and needs, it is important to ensure that your program accepts participants with needs that can be met by the types of treatment available in your community. In addition to the ability to meet the level of care needed by a particular participant, it is important that a new drug court consider cultural and gender issues. Research indicates that cultural sensitivity can improve the therapeutic relationship and improve treatment outcomes.<sup>5</sup> Research also shows that holding separate treatment groups for men and women tends to produce better outcomes, especially for women.<sup>6</sup>

## Treatment Considerations

- Determining appropriate level of care (through ASAM criteria or some other placement instrument)
- Individualized Treatment Plans
- Service availability within the community
- Cultural and Gender Sensitivity
- Potential need for mental health services to participants with co-occurring disorders

Drug courts should also determine what mental health services are available within their jurisdictions and what types of clients these programs serve. It is estimated that 20 to 50 percent of drug court participants have a co-occurring mental health disorder.<sup>7</sup> Both the substance use disorder and mental health symptoms should be addressed in order to most effectively treat these participants.

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<sup>3</sup> Belenko, Steven, and Jordan Peugh. 1998. *Behind Bars: Substance abuse and America's prison population*. New York, NY: Center of Addiction & Substance Abuse at Columbia University.

<sup>4</sup> Bennett, Trevor, Katy Holloway, and David Farrington. 2008. The statistical association between drug misuse and crime: a meta-analysis. *Aggression & Violent Behavior* 13: 107-118.

<sup>5</sup> Westermeyer, Joseph, & Daniel L. Dickerson. 2008. Minorities. In *Textbook of Substance Abuse Treatment*, 639-651. Washington DC: American Psychiatric Press.

<sup>6</sup> Brady, Kathleen T., and Sudie E. Back. 2008. Women and Addiction. In *Textbook of Substance Abuse Treatment*, 555-564. Washington DC: American Psychiatric Press.

<sup>7</sup> Ross, Stephen. 2008. The Mentally Ill Substance Abuser. In *Textbook of Substance Abuse Treatment*, 537-554. Washington DC: American Psychiatric Press.

# PROGRAM STRUCTURE AND PHASES

Virtually all drug court programs are structured into phases, with advancement through the phases based on objective criteria. Your team should develop program and phase requirements. The program should have a minimum and maximum length. Adult and DWI programs often set their maximum at 24 months (the statutory maximum for district court misdemeanor probation cases) with a minimum near 12 months. Juvenile programs and family dependency programs have a tendency to set their minimums a few months shorter, near 9 months, and maximums between 12 and 18 months. For family dependency courts, program length often revolves around permanency placement requirements.

Drug court programs have a varying number of phases. There is no required number of phases; however, the phase structure should focus on progressive goals for the participant. As participants progress, they are promoted to a higher phase where monitoring is reduced and requirements are changed. For example, when promoted, the number of drug tests per week may be lessened and a new requirement to complete a GED may be instituted. Your team should determine how many phases to include in your program, how long each phase will be (remembering that each phase can be a different length), and what the requirements will be in each phase.

Programs must also determine what the criteria are for phase promotions. Must the participants complete all requirements of the phase to advance, 75 percent of the requirements, or will participants need to earn points that are tallied to determine phase advancements? Some courts require a participant to make a written application for phase advancement. Some programs offer incentives to reward phase advancement. Your team will also need to make a decision about your use of phase demotions. Phase demotions can be significantly more demoralizing to participants than other sanctions that may be equally effective in correcting the participant's behavior.

An important factor that should frame this discussion is the need for consistency among and between participants. Phase requirements and program expectations should be clearly stated in the program contract or handbook, and then adhered to and supported by the team. For example, if the program requires 180 days of sobriety for graduation, allowing a participant with a recent relapse to graduate may create an appearance of unfairness to other participants.

Lastly, your team members will need to determine what the program requirements are for graduation. Will participants need to meet every requirement of every phase to graduate? Are some requirements flexible and others not? Will participants have to start and remain in each phase for a set duration regardless of their individual criminogenic risks? When a participant graduates from the program, the team should formally recognize that graduation with a ceremony.

## Sample Guidelines

*Please note these guidelines are listed only as a sample and are not intended to be an exhaustive list for developing a drug court program.*

### Phase I: Stabilization

- Attend a minimum of 4 hours of treatment a week
- Attend 5 self-help meetings per week and obtain a sponsor
- Weekly meetings with probation officer
- Bi-weekly court hearings
- Minimum of 4 random drug/alcohol tests per week
- Minimum of 90 days clean before advancement
- Write essay explaining what you have learned in Phase I

### Phase II: Maintenance

- Attend a minimum of 2 hours per week of treatment
- Bi-weekly court hearings and meetings with probation
- Attend 3 self-help meetings per week and maintain sponsor
- Minimum of 3 random drug/alcohol tests per week
- Begin seeking employment or GED requirements
- Minimum of 90 days clean before advancement

### Phase III: Health & Wellness

- Meet with probation officer as directed
- Monthly court hearings
- Attend 1 meeting per week
- Minimum of 3 random drug/alcohol tests per week
- Maintain employment or pass GED tests
- Begin nutrition and life skills classes as directed
- 50 hours of community service
- Minimum of 90 days clean before advancement

### Phase IV: Relapse Prevention

- Monthly court hearings
- Meet with probation officer as directed
- Continue self-help meetings
- Minimum of 2 random drug/alcohol tests per week
- Minimum of 180 days clean before graduation
- Pay off all fines and costs before graduation
- Obtain steady employment before graduation

# STAFF MEETINGS & JUDICIAL REVIEW HEARINGS

## STAFFING MEETINGS

Prior to each drug court review hearing, most programs hold staffing meetings. These are meetings for the purpose of updating all team members about the progress of each participant, and making decisions regarding each case, such as whether to issue a sanction or incentive. Staffing reports can be generated and printed from the Drug Court Case Management Information System (DCCMIS). Staffing reports are customizable, and can include the achievements and difficulties of each participant, staff and treatment providers' recommendations for adjustments to treatment plans, drug test results, incentives and sanctions, and other program components. Your team will need to determine which team members will attend each staffing meeting and how decisions about participants will be recorded during the meeting. This will give the judge information about each participant who stands before him or her.

## REVIEW

Judicial status review hearings typically follow the staffing meetings. These should be dockets dedicated solely to drug court participants. Participants attend these hearings as a group and remain in the courtroom as each fellow participant interacts with the judge. This allows participants to see the consequences of others' actions and builds a sense of mutual support among participants.

Based upon the participant's treatment needs and criminogenic risk, the frequency of judicial review hearings should be determined per participant. Although many programs set rigid guidelines for the frequency of judicial reviews determined by program phase, research indicates that low-risk offenders are successful with fewer judicial reviews than high-risk offenders. The National Association of Drug Court Professionals (NADCP) indicates in their publication, *Principles of Evidence-Based Sentencing and Dispositional Reform*, that high criminogenic risk offenders require "close and continuous monitoring of substance use, criminal activity, and treatment attendance. In addition, frequent status reviews are required by a criminal justice professional, typically a judge, who has the authority to impose meaningful and substantial rewards for accomplishments and sanctions for infractions." Research shows that holding status reviews for high-risk participants less often than biweekly or monthly will have little effect on improving their behavior or reducing substance use. Additionally, NADCP states that low-risk offenders can be managed on noncompliance calendars. Therefore, classifying offenders by risk and setting judicial review frequency accordingly can lower costs and save resources.



# COMMUNITY SUPERVISION

Drug court offenders are generally not at risk for using drugs or committing crimes while attending court hearings, visiting a probation officer, or participating in substance abuse treatment. The risks are in their social environment. Community supervision can extend the drug court's influence to the day-to-day settings in which the participant lives and functions.

Because no single agency is capable of monitoring offenders around the clock, drug courts should seek to form as many partnerships as are necessary to establish strong community supervision standards. Your program may wish to partner with local police agencies, probation offices, and local dispatchers. Connecting with these agencies can allow for the drug court to be notified when a participant has contact with law enforcement.

## Goals of Community Supervision

- Increase Accountability
- Improve Public Safety
- Improve health/welfare of drug court participants
- Save costs by preventing violations, rather than reacting to them
- Build partnerships with local law enforcement agencies

To enhance supervision, some drug courts utilize home visits, and usually administer alcohol breath tests during these visits. Home visits allow the drug court to check compliance with things like abstinence and curfews. Some visits are scheduled and include a routine check on the participant's home life, while others are unannounced in an effort to focus on program compliance. DCCMIS allows you to track both announced and unannounced home visits, and whether there was a violation. Appropriate home checks can also allow for important information sharing with the treatment provider. For example, if a participant denies drinking, but the probation officer sees empty beer bottles during a visit, the counselor can use this information to begin a dialogue with the participant. Conversely, home visits can provide opportunities for the probation officer or case manager to "catch the participant

doing something right." For instance, a probation officer might notice that the participant has cleaned his or her home and seems to be living in a healthier environment. This information can be shared with the team and treatment provider to reaffirm the positive behavior.

Beyond working with local police agencies and conducting home visits, some drug court programs have opted to utilize new technologies to implement electronic monitoring. GPS tethers and alcohol-detecting devices (e.g. Secure Continuous Remote Alcohol Monitor – SCRAM) can provide round-the-clock monitoring of a drug court participant's location or alcohol use. Some programs choose to allow participants to get a restricted driver's license under MCL 600.1084, which requires the use of an ignition interlock device. Other commonly-used devices allow for unscheduled breath tests or curfew phone calls. Your program should keep in mind that electronic monitoring should be used as a supplement to, not in place of, human supervision. For every machine, there will be someone who finds a way around it. Therefore, the best supervision is done by case managers and probation officers in the field, off-hours, enforcing the orders of the court and building accountability.

## Testing Types

These are three of the most common types of drug testing used in drug courts. Alcohol testing is usually done through breath tests or enzyme tests.

For more information, refer to *The Drug Court Judicial Benchbook*.

**Urinalysis:** Provides a profile of both current and recent past substance use.

- **Advantages:** Sample is generally available in large quantities for testing; drug and metabolites are highly concentrated and therefore easily detected on site or by a lab; numerous inexpensive options; established cutoffs.
- **Disadvantages:** Invasive “witnessed” collection; vulnerable to tampering via dilution or adulteration; collection process can be time consuming.

**Oral Swab:** Provides recent use detection.

- **Advantages:** Noninvasive method allows for cross-gender collections; specimen tampering is reduced.
- **Disadvantages:** Short detection window (many drugs cannot be detected 24 hours after use); limited number of drugs detected; cutoffs not well established; limited collecting devices and testing facilities.

**Hair:** Provides past drug use only, with a detection period of up to 90 days.

- **Advantages:** Extended detection period; noninvasive method allows for cross-gender collections; no biohazard issues; reduce tampering; no poppy seed interference.
- **Disadvantages:** Higher cost; cannot detect recent use; no on-site testing; may not detect single-use event; date of use cannot be determined.

# SUBSTANCE ABUSE TESTING

Effective monitoring of substance use or abstinence is a vital component of any drug court program. Drug testing provides an objective means of determining recent use. It also serves as a deterrent to future use, in that participants know they could be tested at any time and face consequences for using. Drug testing also identifies clients who remain abstinent and can guide incentives or rewards.

It is important for your program to develop a written policy on drug testing procedures. A good resource to examine in developing your procedures is the Office of Justice Program’s publication entitled *Drug Testing in a Drug Court Environment: Common Issues to Address*, available at <http://www.ncjrs.gov/pdffiles1/ojp/181103.pdf>. Drug testing requirements and expectations should be spelled out in the participant handbook. Clearly establishing the program’s rules in advance and communicating those expectations to participants promotes compliance and can reduce confusion.

Your team should have a same-gendered observer available for all urinalyses. Your team will also need to establish a chain of custody policy so it is clear who will place a seal on the specimen, who will initial the seal, where it will be kept, etc. It is necessary to identify the agency or agencies that will conduct testing and a lab that can confirm disputed positive tests. Drug testing is expensive so your team will need to determine how tests will be paid for. Many programs ask participants to pay for lab confirmation of disputed positive tests and then repay the participant if the test results are indeed negative. However, the remainder of the drug tests will likely need to be funded through another source. Some programs require the participant to pay for testing, others use their operating funds. Still others partner with local law enforcement agencies; for example, in some jurisdictions, drug court participants can get free alcohol breath tests at the police station.

Testing should be conducted on a random basis and at different times of the day or night, including weekends. With regard to substance abuse testing, research provides evidence that less frequent but random testing can be more beneficial than daily testing as long as the participant believes that he or she could be tested at any time. Creating a system that ensures the random nature of testing will be beneficial. Many programs assign a color to each participant, which can also be tracked in the DCCMIS. This process requires participants to call into a telephone recording where they learn what color or colors will be drug tested that day and the time and location of testing. Additionally, your team will need to determine what types of tests you will administer (PBTs, EtGs, tether, etc.) and what specific substances you’ll test for when participants report. This may vary by participant or be uniform for all program participants.

# INCENTIVES & SANCTIONS

The National Association of Drug Court Professionals (NADCP) published *Principles of Evidence-Based Sentencing and Dispositional Reform*, in which they indicate that the most successful programs utilize a variety of mid-range responses to participants' behaviors. Starting in the middle of the incentives and sanctions range allows programs to increase or decrease their responses to violations or achievements. The publication is available at <http://www.nadcp.org/sites/default/files/nadcp/NADCP%20Principles%20of%20Evidence-Based%20Sentencing.pdf>.

Incentive and sanction ideas are included at right. It is a good idea to determine what specific incentives and sanctions will be given for specific participant behaviors. This encourages fairness among participants and allows participants to predict the consequences of their actions. Once your team has determined the types of incentives and sanctions you will use to encourage or discourage particular behaviors, you should consider documenting this information in the participant handbook. Making it clear the rewards a participant might expect, or the consequences they will face for negative behavior, will help the participants to understand their roles and responsibilities in drug court.

NADCP states that incentives are "critical for producing long-term behavioral improvements." In fact, giving incentives to individuals who are high-risk is especially effective because these participants are desensitized to punishment and are unaccustomed to being rewarded. Incentives do not need to be costly (courtroom applause or verbal praise from the judge) and can be individualized. For example, if a participant enjoys writing, an incentive might be allowing the participant to read a poem he or she wrote in open court. Incentives can also include monetary gifts such as bus tokens, books, and meal coupons. One economical way to award incentives with a monetary value is to employ the "fishbowl concept." That is, to allow deserving participants the opportunity to draw from a bowl for a chance to receive the available rewards.

Program violations are not treated like probation violations. Once an offender agrees to participate in drug court, he or she waives the right to counsel at review hearings that may involve administering a sanction. The sanction may be a loss of liberty. Should the participant object to the imposed sanction, the court must advise the participant that a formal objection is equivalent to withdrawing from the program. Sanctions include things such as verbal warnings, community service, and curfews. They should be graduated in nature so that more severe sanctions like jail time occur only after lesser sanctions have been administered and exhausted. NADCP recommends that jail sanctions be administered as quickly after the negative behavior as possible, remain short in duration, and allow for continued substance use disorder treatment, if possible.

## Incentives

- Applause
- Books
- Bus Tokens
- Court Appearances Decreased
- Court Appearances Ended
- Curfew Extension
- Drug Testing Decreased
- Entry into Gift Drawing
- Early Graduation
- Early Dismissal from Review Hearing
- Gift Certificate
- Individualized Reward (favorite restaurant card, allowed to demonstrate a talent in the courtroom, art supplies, etc.)
- Judge Shakes Hand
- Judicial Praise
- Permission to Travel
- Phase Promotion
- Photo Taken with Judge
- Probation Reporting Decreased
- Probation Reporting Ended

## Sanctions

- ¼ Housing
- Community Service
- Court Appearances Increased
- Curfew Imposed
- Detention
- Drug Testing Increased
- Essay
- Home Detention
- Jail
- Job Club until Employed
- Letter of Apology
- Phase Demotion
- Phase Time Extended
- Probation Reporting Increased
- Removal of Driving Privileges
- Residential Facility
- Self-Help Sessions Increased
- Sit in on Other Court Sessions
- Tether

# CONFIDENTIALITY

In general, confidentiality in drug court is addressed by two federal statutes, the Health Insurance Portability and Accountability Act (HIPAA), and 42 CFR Part 2. Despite conventional wisdom and practice, HIPAA does not apply to the courts, law enforcement, or probation officers. 42 CFR Part 2, however, applies to any program that is directly or indirectly assisted by any department or agency of the United States, which is interpreted to include any state or local court system.

HIPAA was enacted to improve health care by establishing standards for the electronic transmission of certain health records. A privacy rule prohibits certain entities from disclosing a patient's health information without proper consent or authorization. Though HIPAA does not specifically apply to the courts, it does apply to substance abuse treatment providers. Thus, it is recommended that drug courts adhere to the spirit of the law by requiring participants to sign a consent form that meets HIPAA requirements. This consent can be integrated into the participant's 42 CFR Part 2 consent.

42 CFR applies to substance abuse program records. It protects the identity, diagnosis, prognosis, and treatment records of any participant in a substance abuse program. Essentially, 42 CFR Part 2 prohibits the direct or indirect acknowledgement of one's substance abuse diagnosis, prognosis, or treatment. Drug test results are not protected unless used for diagnosis or treatment. Therefore, because of the therapeutic use of drug testing results in drug courts, these records should also be considered protected under federal confidentiality laws.

Because it is important that the court and treatment providers maintain ongoing communication and exchanges of information regarding drug court participants, those participants should be required to sign a valid consent form, allowing the disclosure of their treatment information. There are two requirements for a valid consent form: advisement of the participant's rights under the law, and the actual consent. The specific requirements for such a form can be found in the *Practical Guide for Applying Federal Confidentiality Laws to Drug Court Operations* at <http://www1.spa.american.edu/justice/documents/1936.pdf> and in the language of the federal statute itself, available in its entirety at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=42:1.0.1.1.2&idno=42>. Another valuable resource is *Federal Confidentiality Laws and How They Affect Drug Court Practitioners*, available at <http://www.wvpds.org/Drug%20Court/Federal%20Confidentiality%20Section%207.pdf>.

Sample consent forms are available on the National Drug Court Resource Center website at <http://www.ndcrc.org>. A sample consent form is also provided in Appendix F.

# ALUMNI & STEP DOWN GROUPS

Some participants struggle to maintain their sobriety after court supervision and accountability abruptly end at graduation. In response, some drug court programs have instituted alumni groups as an option for participants who could benefit from continued support from the court and other drug court participants. Due to worry over support and accountability soon falling away, some participants relapse shortly before graduation as a means to remain in the comfort of the program. Thus, many programs have also instituted step-down groups. These are groups in which participants can receive support prior to graduation. Participants may join when promoted to the final phase of the program or a specific amount of time before their scheduled graduation (for example, during their last three months of participation). Some courts require participation in an alumni or step-down group, while other programs make participation optional.

Alumni programs engage in a variety of activities, including planning sober social events, publishing newsletters, participating in subsequent drug court graduations, and developing 12-step meetings for the court's alumni.

Some programs engage alumni as mentors for current participants. These mentors provide a support system for new participants as they navigate drug court. Drug court mentors provide support and encouragement to new participants, provide transportation for participants, attend graduation ceremonies, plan sober social activities, and sometimes serve as sponsors in 12-step groups.

The Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project at American University prepared a comprehensive report on Drug Court Alumni strategies. The report, entitled, *Good Beginnings: Development and Maintenance of Drug Court Alumni Groups*, can be accessed through the American University website at <http://www1.spa.american.edu/justice/documents/247.pdf>.

# DISCHARGE

Participants can be discharged from your program for a variety of reasons, such as successfully completing the program, noncompliance with program rules, or absconding. Your team will need to establish specific criteria for what constitutes successful program completion. For example, graduation requirements might include a minimum of 90 days sober, completion of all phase requirements, and employment or enrollment in school. You must also decide if court supervision of a participant ends when he or she successfully graduates or whether participants will be continued on probation. Additionally, your team should determine how to hold graduation ceremonies; for instance, if they will be for individual or multiple participants, and who might be notified of the ceremonies (participants' families, friends, local stakeholders). Remember that if you wish to invite local news media to the graduation ceremony, the participants must sign a release agreeing to be identified.

Regarding unsuccessful participants, your team should set specific guidelines for program discharge. As with admission criteria, it is important to be fair in program discharges. Determining specific criteria and listing them in the program handbook or participant agreement can help reduce confusion. Your team should also discuss how long you will wait until you discharge a participant who absconds. To ensure data accuracy, you should not wait longer than 90 days before discharging an absconder as an unsuccessful participant. For a participant who is unsuccessful and has program participation terminated, the court must enter adjudication of guilt (if it was deferred) and sentence on the original charge to which the participant pled guilty. A record of the discharge status should be sent to the state police.

Pursuant to MCL 600.1076, upon discharge, the court must place on the record or in a written statement in the court file, an indication of successful completion or termination and if terminated, why the participant was terminated. If the participant successfully completes the program and had proceedings deferred, the court shall comply with the agreement made at admission. The court can discharge and dismiss proceedings against an individual who meets all of the following: the participant has never participated in drug court before, has successfully completed the program, is not required by law to be sentenced to a correctional facility, is not currently charged with and has not pled guilty to a traffic offense, and has not previously been subject to both (1) assignment to youthful trainee act, and (2) dismissal of criminal proceedings. Finally, the court must send a record of discharge status to the state police. If the participant successfully completes and did not have proceedings deferred, the court shall enter adjudication of guilt, sentence the individual (if not already sentenced), and send a record of the discharge status to the state police.

# EVALUATING YOUR PROGRAM

It is important to think ahead to how you will evaluate the effectiveness and performance of your drug court program. Evaluation is a critical component of the drug court concept. Funding sources will want justification as to why your program is worthy of funding. The quality of your evaluation depends upon accurate and thorough data collection throughout the duration of your program. Your program may choose to solicit the expertise of an independent evaluator to help with the design of the evaluation and/or to conduct analyses of your data. Evaluators can be professors or graduate students from local colleges and universities, or independent contractors with drug court evaluation experience. Some counties have evaluation staff that can provide services to the drug court. The SCAO conducts on-site reviews of grant-funded drug courts and provides feedback to those programs, but these reviews should not replace a full evaluation.

## **Minimum Standard Data**

In accordance with MCL 600.1078, drug courts are required to provide minimum standard data to the State Court Administrative Office. These minimum requirements generally align with the 10 Key Components of Drug Court, and include things like a participant's basic demographic information, criminal history, drug testing frequency and results, drug court review hearing frequency, and treatment contact hours.

The Minimum Standard Data for drug courts can be found on the SCAO website at <http://courts.michigan.gov/scao/services/DrugCourts/MinimumStandardDataReformattedAdult.pdf>

There are generally two types of evaluations that might take place in a drug court. The first is called a process evaluation, which tells the team what is or is not working in the program's day-to-day operations. For instance, the court may examine its screening process to ensure that potential participants are being screened quickly and efficiently. Or, the court may review its drug testing protocol to ensure that participants are being tested frequently and randomly, and that accurate test results are available in a timely manner. The second type of evaluation is an outcome evaluation, which measures the effectiveness of the program. Such an evaluation might look at the graduation rate in the program, and the recidivism rate of both successful and unsuccessful participants. A comparison group of similar offenders handled by traditional methods and/or a control group of eligible but randomly selected participants will be beneficial to have for baseline information and comparison.

All recognized drug courts are required to collect and provide data to the SCAO using DCCMIS. DCCMIS is a web-based and there is no cost to the court to use the system. A court can begin using DCCMIS after submitting an approved Local Administrative Order and Memorandum of Understanding, and when the court has signed a contract to use the system. Free training on the system is offered by SCAO throughout the year. A separate component of the system, DCAS, allows users to analyze the data they enter into the system and conduct statistical tests. DCAS is a valuable tool in evaluating your program.

# APPENDIX A

Act No. 224  
Public Acts of 2004  
Approved by the Governor  
July 21, 2004  
Filed with the Secretary of State  
July 21, 2004  
EFFECTIVE DATE: January 1, 2005

**STATE OF MICHIGAN  
92ND LEGISLATURE  
REGULAR SESSION OF 2004  
Introduced by Senators Cropsy, Patterson, Sanborn, Bishop, Schauer and Brater  
ENROLLED SENATE BILL No. 99**

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding chapter 10A.

*The People of the State of Michigan enact:*

## CHAPTER 10A.

### DRUG TREATMENT COURTS

Sec. 1060. As used in this chapter:

- (a) "Dating relationship" means that term as defined in section 2950.
- (b) "Domestic violence offense" means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.
- (c) "Drug treatment court" means a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol. A drug treatment court should comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:
  - (i) Integration of alcohol and other drug treatment services with justice system case processing.
  - (ii) Use of a nonadversarial approach by prosecution and defense that promotes public safety while protecting any participant's due process rights.
  - (iii) Identification of eligible participants early with prompt placement in the program.
  - (iv) Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
  - (v) Monitoring of participants effectively by frequent alcohol and other drug testing to ensure abstinence from drugs or alcohol.
  - (vi) Use of a coordinated strategy with a regimen of graduated sanctions and rewards to govern the court's responses to participants' compliance.
  - (vii) Ongoing close judicial interaction with each participant and supervision of progress for each participant.
  - (viii) Monitoring and evaluation of the achievement of program goals and the program's effectiveness.
  - (ix) Continued interdisciplinary education in order to promote effective drug court planning, implementation, and operation.
  - (x) The forging of partnerships among other drug courts, public agencies, and community-based organizations to generate local support.
- (d) "Participant" means an individual who is admitted into a drug treatment court.
- (e) "Prosecutor" means the prosecuting attorney of the county, the city attorney, the village attorney, or the township attorney.
- (f) "Traffic offense" means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to a violation of that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.
- (g) "Violent offender" means an individual who meets either of the following criteria:
  - (i) Is currently charged with or has pled guilty to, or, if a juvenile, is currently alleged to have committed or has admitted responsibility for, an offense involving the death of or a serious bodily injury to any individual, or the carrying, possessing, or use of a firearm or other dangerous weapon by that individual, whether or not any of these circumstances are an element of the offense, or is criminal sexual conduct of any degree.



(ii) Has 1 or more prior convictions for, or, if a juvenile, has 1 or more prior findings of responsibility for, a felony involving the use or attempted use of force against another individual with the intent to cause death or serious bodily harm.

Sec. 1062. (1) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a drug treatment court, pursuant to statute or court rules. However, the circuit or district court shall not adopt or institute a drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party.

(2) The family division of circuit court in any judicial circuit may adopt or institute a juvenile drug treatment court, pursuant to statute or court rules. However, the family division of circuit court shall not adopt or institute a juvenile drug treatment court unless the family division of circuit court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit, the local substance abuse coordinating agency for that circuit, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit. The memorandum of understanding shall describe the role of each party. A juvenile drug treatment court is subject to the same procedures and requirements provided in this chapter for drug treatment courts created under subsection (1), except as specifically provided otherwise in this chapter.

(3) A court that is adopting a drug treatment court shall participate in training as required by the state court administrative office and the bureau of justice assistance of the United States department of justice.

Sec. 1063. A drug treatment court may hire or contract with licensed or accredited treatment providers, in consultation and cooperation with the local substance abuse coordinating agency, and other such appropriate persons to assist the drug treatment court in fulfilling its requirements under this chapter, such as the investigation of an individual's background or circumstances, or the clinical evaluation of an individual, for his or her admission into or participation in a drug treatment court.

Sec. 1064. (1) Each drug treatment court shall determine whether an individual may be admitted to the drug treatment court. No individual has a right to be admitted into a drug treatment court. However, an individual is not eligible for admission into a drug treatment court if he or she is a violent offender.

(2) In addition to admission to a drug treatment court under this act, an individual who is eligible for admission pursuant to this act may also be admitted to a drug treatment court under any of the following circumstances:

(a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(b) The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:

(i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(ii) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(iii) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(iv) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(3) To be admitted to a drug treatment court, an individual must cooperate with and complete a preadmissions screening and evaluation assessment and must agree to cooperate with any future evaluation assessment as directed by the drug treatment court. A preadmission screening and evaluation assessment shall include all of the following:

(a) A complete review of the individual's criminal history, and a review of whether or not the individual has been admitted to and has participated in or is currently participating in a drug treatment court, whether admitted under this act or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. A review of the law enforcement information network may be considered sufficient for purposes of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a drug treatment court and the results of his or her participation in the prior program or programs.

(b) An assessment of the risk of danger or harm to the individual, others, or the community.

(c) As much as practicable, a complete review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that this assessment should be a clinical assessment as much as practicable.

(d) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders.

(e) For a juvenile, an assessment of the family situation including, as much as practicable, a comparable review of any guardians or parents.

(4) Except as otherwise permitted in this act, any statement or other information obtained as a result of participating in a preadmission screening and evaluation assessment under subsection (3) is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for the purposes of determining an individual's admission into the drug treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a drug treatment court under this act, or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. The department of state police shall provide the information requested by a drug treatment court under this subsection.

Sec. 1066. Before an individual is admitted into a drug treatment court, the court shall find on the record, or place a statement in the court file pertaining to, all of the following:

(a) The individual is dependent upon or abusing drugs or alcohol and is an appropriate candidate for participation in the drug treatment court.

(b) The individual understands the consequences of entering the drug treatment court and agrees to comply with all court orders and requirements of the court's program and treatment providers.

(c) The individual is not an unwarranted or substantial risk to the safety of the public or any individual, based upon the screening and assessment or other information presented to the court.

(d) The individual is not a violent offender.

(e) The individual has completed a preadmission screening and evaluation assessment under section 1064(3) and has agreed to cooperate with any future evaluation assessment as directed by the drug treatment court.

(f) The individual meets the requirements, if applicable, under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(g) The terms, conditions, and the duration of the agreement between the parties, especially as to the outcome for the participant of the drug treatment court upon successful completion by the participant or termination of participation.

Sec. 1068. (1) If the individual being considered for admission to a drug treatment court is charged in a criminal case or, in the case of a juvenile, is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission is subject to all of the following conditions:

(a) The offense or offenses allegedly committed by the individual must be related to the abuse, illegal use, or possession of a controlled substance or alcohol.

(b) The individual, if an adult, must plead guilty to the charge or charges on the record. The individual, if a juvenile, must admit responsibility for the violation or violations that he or she is accused of having committed.

(c) The individual must waive, in writing, the right to a speedy trial, the right to representation at drug treatment court review hearings by an attorney, and, with the agreement of the prosecutor, the right to a preliminary examination.

(d) The individual must sign a written agreement to participate in the drug treatment court.

(2) The prosecutor must approve of the admission of the individual into the drug treatment court in conformity with the memorandum of understanding under section 1062.

(3) An individual shall not be admitted to, or remain in, a drug treatment court pursuant to an agreement that would permit a discharge or dismissal of a traffic offense upon successful completion of the drug treatment court program.

(4) In addition to rights accorded a victim under the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the drug treatment court must permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which either the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the drug treatment court.

(5) An individual who has waived his or her right to a preliminary examination and has pled guilty or, in the case of a juvenile, has admitted responsibility, as part of his or her application to a drug treatment court and who is not admitted to a drug treatment court, shall be permitted to withdraw his or her plea and is entitled to a preliminary examination or, in the case of a juvenile, shall be permitted to withdraw his or her admission of responsibility.

Sec. 1070. (1) Upon admitting an individual into a drug treatment court, all of the following apply:

(a) For an individual who is admitted to a drug treatment court based upon having criminal charges currently filed against him or her, the court shall accept the plea of guilty or, in the case of a juvenile, the admission of responsibility.

(b) For an individual who pled guilty to, or admitted responsibility for, criminal charges for which he or she was admitted into the drug treatment court, the court shall do either of the following:

(i) In the case of an individual who pled guilty to an offense that is not a traffic offense and who may be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall not enter a judgment of guilt or, in the case of a juvenile, shall not enter an adjudication of responsibility.

(ii) In the case of an individual who pled guilty to a traffic offense or who pled guilty to an offense but may not be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall enter a judgment of guilt or, in the case of a juvenile, shall enter an adjudication of responsibility.

(c) Pursuant to the agreement with the individual and the prosecutor, the court may either defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case pursuant to that agreement, and place the individual on probation or other court supervision in the drug treatment court program with terms and conditions according to the agreement and as deemed necessary by the court.

(2) The court shall maintain jurisdiction over the drug treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile participant, the court may obtain jurisdiction over any parents or guardians of the juvenile in order to assist in ensuring the juvenile's continued participation and successful completion of the drug treatment court, and may issue and enforce any appropriate and necessary order regarding the parent or guardian of a juvenile participant.

(3) The drug treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The drug treatment court may require an individual admitted into the court to pay a reasonable drug court fee that is reasonably related to the cost to the court for administering the drug treatment court program as provided in the memorandum of understanding under section 1062. The clerk of the drug treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The drug treatment court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a drug treatment court under this subsection.

Sec. 1072. (1) A drug treatment court shall provide a drug court participant with all of the following:

(a) Consistent, continual, and close monitoring of the participant and interaction among the court, treatment providers, probation, and the participant.

(b) Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using to the extent practicable the best available, accepted, and scientifically valid methods.

(c) Periodic evaluation assessments of the participant's circumstances and progress in the program.

(d) A regimen or strategy of appropriate and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of incarceration or confinement.

(e) Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable.

(2) Any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a drug treatment court is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

Sec. 1074. (1) In order to continue to participate in and successfully complete a drug treatment court program, an individual shall comply with all of the following:

(a) Pay all court ordered fines and costs, including minimum state costs.

(b) Pay the drug treatment court fee allowed under section 1070(4).

(c) Pay all court ordered restitution.

(d) Pay all crime victims rights assessments under section 5 of 1989 PA 196, MCL 780.905.

(e) Comply with all court orders, violations of which may be sanctioned according to the court's discretion.

(2) The drug treatment court must be notified if the participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the drug treatment program in conformity with the memorandum of understanding under section 1062. If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge shall terminate the participant's participation in the program.

(3) The court shall require that a participant pay all fines, costs, the fee, restitution, and assessments described in subsection (1)(a) to (d) and pay all, or make substantial contributions toward payment of, the costs of the treatment and the drug treatment court program services provided to the participant, including, but not limited to, the costs of urinalysis and such testing or any counseling provided. However, if the court determines that the payment of fines, the fee, or costs of treatment under this subsection would be a substantial hardship for the individual or would interfere with the individual's substance abuse treatment, the court may waive all or part of those fines, the fee, or costs of

treatment.

Sec. 1076. (1) Upon completion or termination of the drug treatment court program, the court shall find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) For a participant who successfully completes probation or other court supervision and whose proceedings were deferred or who was sentenced pursuant to section 1070, the court shall comply with the agreement made with the participant upon admission into the drug treatment court, or the agreement as it was altered after admission by the court with approval of the participant and the prosecutor for that jurisdiction as provided in subsections (3) to (8).

(3) If an individual is participating in a drug treatment court under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, the court shall proceed pursuant to the applicable section of law. There may only be 1 discharge or dismissal under this subsection.

(4) Except as provided in subsection (5), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1062, may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

(a) The individual has participated in a drug treatment court for the first time.

(b) The individual has successfully completed the terms and conditions of the drug treatment court program.

(c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which he or she has pled guilty.

(d) The individual is not currently charged with and has not pled guilty to a traffic offense.

(e) The individual has not previously been subject to more than 1 of any of the following:

(i) Assignment to the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(ii) The dismissal of criminal proceedings against him or her under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(5) The court may grant a discharge and dismissal of a domestic violence offense only if all of the following circumstances apply:

(a) The individual has not previously had proceedings dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(b) The domestic violence offense is eligible to be dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(c) The individual fulfills the terms and conditions imposed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, and the discharge and dismissal of proceedings are processed and reported under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(6) A discharge and dismissal under subsection (4) shall be without adjudication of guilt or, for a juvenile, without adjudication of responsibility and are not a conviction or a finding of responsibility for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or, for a juvenile, a finding of responsibility. There may only be 1 discharge and dismissal under subsection (4) for an individual. The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network with an indication of participation by the individual in a drug treatment court. All records of the proceedings regarding the participation of the individual in the drug treatment court pursuant to subsection (4) are closed to public inspection, and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, but shall be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and the discharge and dismissal under this subsection.

(7) Except as provided in subsection (3), (4), or (5), if an individual has successfully completed probation or other court supervision, the court shall do the following:

(a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt or, in the case of a juvenile, enter a finding or adjudication of responsibility.

(b) If the court has not already sentenced the individual, proceed to sentencing or, in the case of a juvenile, disposition pursuant to the agreement.

(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the law enforcement information network with an indication of successful participation by the individual in a drug treatment court.

(8) For a participant whose participation is terminated or who fails to successfully complete the drug treatment court program, the court shall enter an adjudication of guilt, or, in the case of a juvenile, a finding of responsibility, if the entering of guilt or adjudication of responsibility was deferred pursuant to section 1070, and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty or, if a juvenile, to

which the juvenile admitted responsibility prior to admission to the drug treatment court. Upon sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the drug treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network, with an indication that the individual unsuccessfully participated in a drug treatment court.

Sec. 1078. (1) Each drug treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office.

(2) Each drug treatment court shall maintain files or databases on each individual applicant or referral who is denied or refused admission to the program, including the reasons for the denial or rejection, the criminal history of the applicant, the preadmission evaluation and assessment, and other demographic information as required by the state court administrative office.

(3) Each drug treatment court shall maintain files or databases on each individual participant in the program for review and evaluation as well as treatment, as directed by the state court administrative office. The information collected for evaluation purposes must include a minimum standard data set developed and specified by the state court administrative office. This information should be maintained in the court files or otherwise accessible by the courts and the state court administrative office and, as much as practicable, should include all of the following:

(a) Location and contact information for each individual participant, both upon admission and termination or completion of the program for follow-up reviews, and third party contact information.

(b) Significant transition point dates, including dates of referral, enrollment, new court orders, violations, detentions, changes in services or treatments provided, discharge for completion or termination, any provision of after-care, and after-program recidivism.

(c) The individual's precipitating offenses and significant factual information, source of referral, and all drug treatment court evaluations and assessments.

(d) Treatments provided, including intensity of care or dosage, and their outcomes.

(e) Other services or opportunities provided to the individual and resulting use by the individual, such as education or employment and the participation of and outcome for that individual.

(f) Reasons for discharge, completion, or termination of the program.

(4) As directed by the state court administrative office, after an individual is discharged either upon completion or termination of the program, the drug treatment court should conduct, as much as practicable, follow-up contacts with and reviews of participants for key outcome indicators, such as drug use, recidivism, and employment, as frequently and for a period of time determined by the state court administrative office based upon the nature of the drug treatment court and the nature of the participant. These follow-up contacts and reviews of former participants are not extensions of the court's jurisdiction over the individuals.

(5) Each drug treatment court shall provide to the state court administrative office all information requested by the state court administrative office.

(6) With the approval and at the discretion of the supreme court, the state court administrative office shall be responsible for evaluating and collecting data on the performance of drug treatment courts in this state as follows:

(a) The state court administrative office shall provide an annual review of the performance of drug treatment courts in this state to the minority and majority party leaders in the senate and house of representatives, the state drug treatment court advisory board created under section 1082, the governor, and the supreme court.

(b) The state court administrative office shall provide standards for drug treatment courts in this state including, but not limited to, developing a list of approved measurement instruments and indicators for data collection and evaluation. These standards must provide comparability between programs and their outcomes.

(c) The state court administrative office's evaluation plans should include appropriate and scientifically valid research designs, which, as soon as practicable, should include the use of comparison and control groups.

(7) The information collected under this section regarding individual applicants to drug treatment court programs for the purpose of application to that program and participants who have successfully completed drug treatment courts shall be exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 1080. (1) The supreme court is responsible for the expenditure of state funds for the establishment and operation of drug treatment courts. Federal funds provided to the state for the operation of drug treatment courts shall be distributed by the department of community health or the appropriate state agency as otherwise provided by law.

(2) The state treasurer may receive money or other assets from any source for deposit into the appropriate state fund or funds for the purposes described in subsection (1).

(3) Each drug treatment court shall report quarterly to the state court administrative office on the funds received and expended by that drug treatment court, in a manner prescribed by the state court administrative office.

Sec. 1082. (1) A state drug treatment court advisory committee is created in the legislative council. The state drug treatment court advisory committee consists of the following members:

(a) The state court administrator or his or her designee.

(b) Sixteen members appointed jointly by the speaker of the house of representatives and the senate majority leader, as follows:

(i) A circuit court judge who has presided for at least 2 years over a drug treatment court.

(ii) A district court judge who has presided for at least 2 years over a drug treatment court.

(iii) A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program.

- (iv) A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court.
  - (v) A court administrator who has worked for at least 2 years with a drug or alcohol treatment court.
  - (vi) A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court.
  - (vii) An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years.
  - (viii) An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court.
  - (ix) An individual representing defense attorneys, who has worked for at least 2 years with drug or alcohol treatment courts.
  - (x) An individual who has successfully completed a drug treatment court program.
  - (xi) An individual who has successfully completed a juvenile drug treatment court program.
  - (xii) An individual who is an advocate for the rights of crime victims.
  - (xiii) An individual representing the Michigan association of drug court professionals.
  - (xiv) An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court.
  - (xv) An individual representing a substance abuse coordinating agency.
  - (xvi) An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board.
- (2) Members of the advisory committee shall serve without compensation. However, members of the advisory committee may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee.
- (3) Members of the advisory committee shall serve for terms of 4 years each, except that the members first appointed shall serve terms as follows:
- (a) The members appointed under subsection (1)(b)(i) to (v) shall serve terms of 4 years each.
  - (b) The members appointed under subsection (1)(b)(vi) to (x) shall serve terms of 3 years each.
  - (c) The members appointed under subsection (1)(b)(xi) to (xvi) shall serve terms of 2 years each.
- (4) If a vacancy occurs in an appointed membership on the advisory committee, the appointing authority shall make an appointment for the unexpired term in the same manner as the original appointment.
- (5) The appointing authority may remove an appointed member of the advisory committee for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.
- (6) The first meeting of the advisory committee shall be called by the speaker of the house of representatives and the senate majority leader. At the first meeting, the advisory committee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the advisory committee shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 9 or more members.
- (7) A majority of the members of the advisory committee constitute a quorum for the transaction of business at a meeting of the advisory committee. A majority of the members present and serving are required for official action of the advisory committee.
- (8) The business that the advisory committee may perform shall be conducted at a public meeting of the advisory committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
- (9) A writing prepared, owned, used, in the possession of, or retained by the advisory committee in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (10) The advisory committee shall monitor the effectiveness of drug treatment courts and the availability of funding for those courts and shall present annual recommendations to the legislature and supreme court regarding proposed statutory changes regarding drug treatment courts.

Enacting section 1. This amendatory act takes effect January 1, 2005.

This act is ordered to take immediate effect.

STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012

Introduced by Reps. Damrow, Glardon, Ouimet, Haines, Tyler, Callton, Hughes, Darany, Lindberg, Bledsoe, Liss, Cavanagh, Ananich, Smiley, Haugh, Dillon, Geiss, Foster, Price, Pettalia, Bumstead, Lyons, Shirkey, Franz, Lori, LaFontaine, Yonker, Rogers, MacGregor, Agema, Rendon, Jenkins, Gilbert, Heise, Potvin, Muxlow, Forlini, Kowall, Johnson, Bauer, Brown, Clemente, Constan, Cotter, Crawford, Daley, Denby, Farrington, Graves, Hammel, Haveman, Hooker, Huuki, Jackson, Knollenberg, Kurtz, Lane, LeBlanc, Lund, McCann, Meadows, O'Brien, Olson, Opsommer, Outman, Poleski, Pscholka, Rutledge, Santana, Roy Schmidt, Wayne Schmidt, Segal, Shaughnessy, Slavens, Somerville, Stamas, Switalski, Tlaib, Walsh, Womack and Zorn

ENROLLED HOUSE BILL No. 5162

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding chapter 12.

*The People of the State of Michigan enact:*

CHAPTER 12

Sec. 1200. As used in this chapter:

- (a) "Armed forces" means the army, air force, navy, marine corps, coast guard, or other military force designated by congress as a part of the armed forces of the United States.
- (b) "Department of military and veterans affairs" or "DMVA" means the department of military and veterans affairs established under section 125 of the executive organization act of 1965, 1965 PA 380, MCL 16.225.
- (c) "Department of veterans affairs" or "VA" means the United States department of veterans affairs.
- (d) "Domestic violence offense" means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.
- (e) "L.E.I.N." means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.
- (f) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, including, but not limited to, post-traumatic stress disorder and psychiatric symptoms associated with traumatic brain injury.
- (g) "Participant" means an individual who is admitted into a veterans treatment court.
- (h) "Prosecutor" means the prosecuting attorney of the county, the city attorney, the village attorney, or the township attorney.
- (i) "Traffic offense" means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to a violation of that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.
- (j) "Veteran" means any of the following:
  - (i) A person who served on active duty in the armed forces for a period of more than 180 days and separated from the armed forces in a manner other than a dishonorable discharge.
  - (ii) A person discharged or released from active duty because of a service-related disability.
  - (iii) A member of a reserve branch of the armed forces at the time he or she was ordered to active duty during a period of war, or in a campaign or expedition for which a campaign badge is authorized, and was released from active duty in a manner other than a dishonorable discharge.
- (k) "Veteran service organization" or "VSO" means an organization that is accredited by the United States department of veterans affairs, as recognized under 38 CFR 14.628.
- (l) "Veterans treatment court" or "veterans court" means a court adopted or instituted under section 1201 that provides a supervised treatment program for individuals who are veterans and who abuse or are dependent upon any controlled substance or alcohol or suffer from a mental illness.
- (m) "Violent offender" means an individual who is currently charged with or has pled guilty to an offense involving the death of, or a serious bodily injury to, any individual, whether or not any of these circumstances are an element of the offense, or is criminal sexual conduct in any degree.

Sec. 1201. (1) A veterans court shall comply with the modified version of the 10 key components of drug treatment courts as promulgated by the Buffalo veterans treatment court, which include all of the following essential characteristics:

- (a) Integration of alcohol, drug treatment, and mental health services with justice system case processing.
- (b) Use of a nonadversarial approach; prosecution and defense counsel promote public safety while protecting participants' due process rights.
- (c) Early and prompt identification and placement of eligible participants in the veterans treatment court program.
- (d) Provision of access to a continuum of alcohol, drug, mental health, and related treatment and rehabilitation services.

- (e) Monitoring of abstinence by frequent alcohol and other drug testing.
  - (f) A coordinated strategy that governs veterans treatment court responses to participants' compliance.
  - (g) Ongoing judicial interaction with each veteran is essential.
  - (h) Monitoring and evaluation to measure the achievement of program goals and gauge effectiveness.
  - (i) Continuing interdisciplinary education promotes effective veterans treatment court planning, implementation, and operations.
  - (j) Forging of partnerships among veterans treatment court, veterans administration, public agencies, and community-based organizations generates local support and enhances veteran treatment court effectiveness.
- (2) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a veterans treatment court by statute or court rule if the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, a representative or representatives of community treatment providers, a representative or representatives of veterans service organizations in the circuit or district court district, and a representative or representatives of the United States department of veterans affairs. However, the memorandum of understanding will only be required to include the prosecuting attorney if the veterans treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, a delayed sentence, deferred entry of judgment, or a sentence involving deviation from the sentencing guidelines. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, a representative or representatives of the local court funding unit, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party, and the conditions for which the memorandum of understanding must be renewed and amended.
- (3) A court that is adopting a veterans treatment court shall participate in training as required by the state court administrative office.
- (4) A court that has adopted a veterans treatment court under this section may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a veterans treatment court in the jurisdiction where the participant is charged. The transfer can occur at any time during the proceedings, including, but not limited to, prior to adjudication. The receiving court shall have jurisdiction to impose sentence, including, but not limited to, sanctions, incentives, incarceration, and phase changes. A transfer under this subsection is not valid unless it is agreed to by all of the following:
- (a) The defendant or respondent.
  - (b) The attorney representing the defendant or respondent.
  - (c) The judge of the transferring court and the prosecutor of the case.
  - (d) The judge of the receiving veterans treatment court and the prosecutor of a court funding unit of the veterans treatment court.
- Sec. 1202. A veterans treatment court may hire or contract with licensed or accredited treatment providers, in consultation and cooperation with the local substance abuse coordinating agency, and other appropriate persons to assist the veterans treatment court in fulfilling its requirements under this chapter, including, but not limited to, an investigation of an individual's background or circumstances, or a clinical evaluation of an individual, before the individual is admitted or permitted to participate in a veterans treatment court. It is the intent of the legislature that, services, including, but not limited to, clinical evaluations, drug and alcohol treatment, and mental health services, shall be provided by the VA to the extent that is practical.
- Sec. 1203. (1) A veterans treatment court shall determine whether an individual may be admitted to the veterans treatment court. No individual has a right to be admitted into a veterans treatment court. However, an individual is not eligible for admission into a veterans treatment court if he or she is a violent offender. An individual is eligible for admission into a veterans treatment court if he or she has previously had an offense discharged or dismissed as a result of participation in a veterans treatment court, drug treatment court, or other specialty court, but he or she shall not have a subsequent offense discharged or dismissed as a result of participating in the veterans treatment court.
- (2) In addition to admission to a veterans treatment court under this act, an individual who is eligible for admission under this act may also be admitted to a veterans treatment court under any of the following circumstances:
- (a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.
  - (b) The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:
    - (i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to that section.
    - (ii) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to that section.
    - (iii) Section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to those sections.
- (3) To be eligible for admission to a veterans treatment court, an individual shall cooperate with and complete a preadmissions screening and evaluation assessment and shall agree to cooperate with any future evaluation assessment as directed by the veterans treatment court. A preadmission screening and evaluation assessment shall include all of the following:
- (a) A determination of the individual's veteran status. A review of the DD Form 214 "certificate of release or discharge from active duty" satisfies the requirement of this subdivision.
  - (b) A complete review of the individual's criminal history and whether the individual has been admitted to, has participated in, or is currently participating in a veterans treatment court, drug treatment court, or other specialty court, whether admitted under this act or a law listed under subsection (2), and the results of the individual's participation. A review of the L.E.I.N. satisfies the requirements of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a veterans treatment court, drug treatment court, or other specialty court, and the results of his or her participation in the prior program or programs.
  - (c) An assessment of the risk of danger or harm to the individual, others, or the community.
  - (d) A review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that, to the extent practicable, an assessment under this subdivision shall be a clinical assessment completed by the VA.
  - (e) A review of the individual's mental health history. It is the intent of the legislature that, to the extent practicable, this assessment shall be a clinical assessment completed by the VA.



(f) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders.

(4) Except as otherwise permitted in this act, any statement or other information obtained as a result of an individual's participation in a preadmission screening and evaluation assessment under subsection (3) is confidential, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, except for a statement or information that reveals criminal acts other than personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the L.E.I.N. pertaining to an individual applicant's criminal history for the purposes of determining an individual's admission into the veterans treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a veterans treatment court, drug treatment court, or other specialty court under this act or under a statute listed under subsection (2), and the results of the individual's participation. The department of state police shall provide the information requested by a veterans treatment court under this subsection.

Sec. 1204. Before an individual is admitted into a veterans treatment court, the court shall find on the record or place a statement in the court file establishing all of the following:

(a) That the individual is a veteran.

(b) That the individual is dependent upon or abusing drugs or alcohol, or suffers from a mental illness, and is an appropriate candidate for participation in the veterans treatment court.

(c) That the individual understands the consequences of entering the veterans treatment court and agrees to comply with all court orders and requirements of the court's program and treatment providers.

(d) That the individual is not an unwarranted or substantial risk to the safety of the public or any individual, based upon the screening and assessment or other information presented to the court.

(e) That the individual is not a violent offender.

(f) That the individual has completed a preadmission screening and evaluation assessment under section 1203(3) and has agreed to cooperate with any future evaluation assessment as directed by the veterans treatment court.

(g) That the individual meets the requirements, if applicable, of a statute listed under section 1203(2).

(h) The terms, conditions, and duration of the agreement between the parties, and the outcome for the participant of the veterans treatment court upon successful completion by the participant or termination of participation.

Sec. 1205. (1) If the individual being considered for admission to a veterans treatment court is charged in a criminal case, his or her admission is subject to all of the following conditions:

(a) The offense or offenses allegedly committed by the individual are generally related to the military service of the individual, including the abuse, illegal use, or possession of a controlled substance or alcohol, or mental illness that arises as a result of service.

(b) The individual pleads guilty to the charge or charges on the record.

(c) The individual waives in writing the right to a speedy trial, the right to representation by an attorney at veterans treatment court review hearings, and, with the agreement of the prosecutor, the right to a preliminary examination.

(d) The individual signs a written agreement to participate in the veterans treatment court.

(2) An individual who may be eligible for discharge and dismissal of an offense, delayed sentence, deferred entry of judgment, or deviation from the sentencing guidelines shall not be admitted to a veterans treatment court unless the prosecutor first approves the admission of the individual into the veterans treatment court in conformity with the memorandum of understanding under section 1201(2).

(3) An individual shall not be admitted to, or remain in, a veterans treatment court under an agreement that would permit the discharge or dismissal of a traffic offense upon successful completion of the veterans treatment court program.

(4) In addition to rights accorded a victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the veterans treatment court shall permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the veterans treatment court.

(5) An individual who has waived his or her right to a preliminary examination and has pled guilty as part of his or her application to a veterans treatment court and who is not admitted to a veterans treatment court shall be permitted to withdraw his or her plea and is entitled to a preliminary examination.

Sec. 1206. (1) All of the following conditions apply to an individual admitted to a veterans treatment court:

(a) For an individual who is admitted to a veterans treatment court based upon having a criminal charge currently filed against him or her, the court shall accept the individual's plea of guilty.

(b) One of the following applies to an individual who pled guilty to a criminal charge for which he or she was admitted to a veterans treatment court, as applicable:

(i) If the individual pled guilty to an offense that is not a traffic offense and may be eligible for discharge and dismissal under the agreement with the court and prosecutor upon successful completion of the veterans treatment court program, the court shall not enter a judgment of guilt.

(ii) If the individual pled guilty to a traffic offense or another offense but is not eligible for discharge and dismissal under the agreement with the court and prosecutor upon successful completion of the veterans treatment court program, the court shall enter a judgment of guilt.

(c) Under the agreement with the individual and the prosecutor, the court may delay or defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case under that agreement, and place the individual on probation or other court supervision in the veterans treatment court program with terms and conditions according to the agreement and as considered necessary by the court.

(2) The court shall maintain jurisdiction over the veterans treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2.

(3) The veterans treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, the United States department of veterans affairs, local VSOs in that circuit or district, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The veterans treatment court may require an individual admitted into the court to pay a veterans treatment court fee that is reasonably related to the cost to the court for administering the veterans treatment court program as provided in the memorandum of understanding under section 1201(2). The clerk of the veterans treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The veterans treatment court may request that the department of state police provide to the court information contained in the L.E.I.N. pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a veterans treatment court under this subsection.

Sec. 1207. (1) A veterans treatment court shall provide an individual admitted to the court with all of the following:

- (a) Consistent, continual, and close monitoring and interaction with the court, treatment providers, probation, and the participant.
- (b) A mentorship relationship with another veteran who can offer the participant support, guidance, and advice. It is the intent of the legislature that, where practicable, the assigned mentor should be as similar to the individual as possible in terms of age, gender, branch of service, military rank, and period of military service.
- (c) Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using, to the extent practicable, the best available, accepted, and scientifically valid methods.
- (d) Periodic evaluation assessments of the participant's circumstances and progress in the program.
- (e) A regimen or strategy of appropriate and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of incarceration or confinement.
- (f) Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable. It is the intent of the legislature that, where practicable, these services shall be provided by the VA.
- (g) Mental health treatment services as appropriate and practicable. It is the intent of the legislature that, where practicable, these services shall be provided by the VA.

(2) Any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a veterans treatment court is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, except for a statement or information that reveals criminal acts other than, or inconsistent with, personal drug use.

Sec. 1208. (1) In order to continue to participate in and successfully complete a veterans treatment court program, an individual shall do all of the following:

- (a) Pay all court-ordered fines and costs, including minimum state costs.
- (b) Pay the veterans treatment court fee allowed under section 1206(4).
- (c) Pay all court-ordered restitution.
- (d) Pay all crime victims' rights assessments under section 5 of 1989 PA 196, MCL 780.905.
- (e) Comply with all court orders. Violations of a court order may be sanctioned within the court's discretion.
- (f) Meet with a member of a veteran service organization or a county veteran counselor to discuss available veterans benefit programs for which the individual may qualify.

(2) The veterans treatment court shall be notified if the veterans treatment court participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the veterans treatment court program in conformity with the memorandum of understanding under section 1201(2). If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to the veterans treatment court, the judge shall terminate the participant's participation in the veterans treatment court.

(3) The court shall require that a participant pay all fines, costs, the fee, restitution, and assessments described in subsection (1)(a) to (d) and pay all, or make substantial contributions toward payment of, the costs of the treatment and the veterans treatment court program services provided to the participant, including, but not limited to, the costs of urinalysis and such testing or any counseling provided. However, if the court determines that the payment of fines, the fee, or costs of treatment under this subsection would be a substantial hardship for the individual or would interfere with the individual's substance abuse or mental health treatment, the court may waive all or part of those fines, the fee, or costs of treatment.

Sec. 1209. (1) Upon completion or termination of the veterans treatment court program, the court shall find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) If a participant successfully completes probation or other court supervision and the participant's proceedings were deferred or the participant was sentenced under section 1206, the court shall comply with the agreement made with the participant upon admission into the veterans treatment court, or the agreement as it was altered after admission by the court with approval of the participant and the prosecutor for that jurisdiction as provided in subsections (3) to (8).

(3) If an individual is participating in a veterans treatment court under a statute listed in section 1203(2), the court shall proceed under the applicable section of law. There shall be not more than 1 discharge or dismissal under this subsection.

(4) Except as provided in subsection (5), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1201(2), may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

- (a) The individual has participated in a veterans treatment court for the first time.
- (b) The individual has successfully completed the terms and conditions of the veterans treatment court program.
- (c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which he or she has pled guilty.
- (d) The individual is not currently charged with and has not pled guilty to a traffic offense.
- (e) The individual has not previously been subject to more than 1 of any of the following:
  - (i) Assignment to the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.
  - (ii) The dismissal of criminal proceedings against him or her under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

(5) The court may grant a discharge and dismissal of a domestic violence offense only if all of the following circumstances apply:

- (a) The individual has not previously had proceedings dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.
- (b) The domestic violence offense is eligible to be dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

- (c) The individual fulfills the terms and conditions imposed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, and the discharge and dismissal of proceedings are processed and reported under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.
- (6) A discharge and dismissal under subsection (4) shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There shall be not more than 1 discharge and dismissal under subsection (4) for an individual. The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the L.E.I.N. with an indication of participation by the individual in a veterans treatment court. All records of the proceedings regarding the participation of the individual in the veterans treatment court under subsection (4) are closed to public inspection and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, but shall be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and the discharge and dismissal under this subsection.
- (7) Except as provided in subsection (3), (4), or (5), if an individual has successfully completed probation or other court supervision, the court shall do the following:
- (a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt.
  - (b) If the court has not already sentenced the individual, proceed to sentencing.
  - (c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the L.E.I.N. with an indication of successful participation by the individual in a veterans treatment court.
- (8) For a participant whose participation is terminated or who fails to successfully complete the veterans treatment court program, the court shall enter an adjudication of guilt if the entering of guilt was deferred or sentencing was delayed under section 1206 and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty prior to admission to the veterans treatment court. Upon sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the veterans treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the L.E.I.N., with an indication that the individual unsuccessfully participated in a veterans treatment court.
- Sec. 1210. Each veterans treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office.
- Sec. 1211. (1) Where practicable, the supreme court has authority to expend state funds for the establishment and operation of veterans treatment courts. Federal funds provided to the state for the operation of veterans treatment courts shall be distributed by the department of community health or the appropriate state agency as otherwise provided by law. Nothing in this subsection prevents a local unit of government or circuit or district court from expending funds for the establishment and operation of veterans treatment courts.
- (2) The state treasurer may receive money or other assets from any source for deposit into the appropriate state fund or funds for the purposes described in subsection (1).
- (3) Each veterans treatment court shall report quarterly to the state court administrative office on the funds received and expended by that veterans treatment court in a manner prescribed by the state court administrative office.
- Sec. 1212. The state drug treatment court advisory committee created under section 1082 shall monitor the effectiveness of veterans treatment courts and the availability of funding and present annual recommendations to the legislature and supreme court regarding statutory changes regarding veterans treatment courts.
- Enacting section 1. This amendatory act does not take effect unless House Bill No. 5159 of the 96th Legislature is enacted into law. This act is ordered to take immediate effect.

# APPENDIX B

## MEMORANDUM OF UNDERSTANDING \_\_\_\_\_ DRUG TREATMENT COURT

This is an understanding between the \_\_\_\_\_ Prosecuting Attorney, \_\_\_\_\_ County Sheriff Department, Community Corrections, \_\_\_\_\_ County Adult Probation, \_\_\_\_\_ Judicial Circuit, Defense Counsel Representative, \_\_\_\_\_ Treatment Provider, \_\_\_\_\_ Substance Abuse Services and \_\_\_\_\_ Court Project Coordinator.

1. The below parties agree to share the following vision for the \_\_\_\_\_ Drug Court:
  - A. Enhance the quality of life throughout \_\_\_\_\_ County;
  - B. Provide leadership through innovative services;
  - C. Continuously improve services;
  - D. Achieve program goals through teamwork;
  - E. Break the generational cycle of criminality and substance abuse.
2. We endorse the goals and mission of the \_\_\_\_\_ County Drug Court Program in order for participants to eliminate future criminal behavior and improve the quality of their lives. For these programs to be successful, cooperation must occur within a network of systems to facilitate and achieve the mission, challenge and vision of the \_\_\_\_\_ County Drug Court;
3. We agree that the mission of the drug court program shall be to successfully rehabilitate substance abusing individuals while maintaining public safety and;
4. We agree to the following challenge of the drug court program: Engaging substance abusing individuals involved in the criminal justice system in a continuum of treatment services and providing them with appropriate intervention through treatment, rehabilitative programming, reinforcement, and monitoring.
5. There are ten principles under which the respective agencies work cooperatively:
  - A. Drug and alcohol addiction is a chronic relapsing disease that is treatable and substance abuse is reversible behavior, but which, if unaddressed, may lead to continuing and increasing criminal behavior and other personal, family, and societal problems.
  - B. Drug court programs offer an opportunity to direct those in crisis with addictions and abuse to begin a rehabilitation process, which may ultimately lead to a reduction or elimination of addiction and abuse and permit the development of a productive lifestyle.
  - C. Treatment intervention should occur early on upon entry to the criminal justice system to achieve maximum treatment outcomes.
  - D. Thorough assessment and evaluation is a critical component of the drug court program.
  - E. Participants with drug and alcohol abuse issues cannot maximize their treatment potential without appropriate treatment intervention that includes their families.
  - F. Participant accountability is foremost in the program, with written program agreements and Court monitoring of behavior on a biweekly basis. Court monitoring will include incremental sanctioning for negative behaviors and positive rewards for improved behaviors.
  - G. Drug court programs are established with written protocols, which are well defined and documented through the Policies and Procedures Manual. The Program Manual will be updated annually, to respond to the changes in the needs of the programs, participants, families, agencies and community.
  - H. Preadjudication participant entry in to the drug court program shall be governed by written eligibility criteria as established by the Drug Court Policy Council with the concurrence of the prosecuting attorney.
  - I. Information about participant progress, participant family progress, and the functioning of the drug court program shall be made available to all parties.
  - J. Effective evaluation of the drug court program shall be sought with appropriate responses being made relative to these evaluations.

6. The roles of the parties are as follows:

- A. Prosecuting attorney: Provide initial screening of eligible participants, participate in biweekly team meetings and biweekly court sessions. Provide feedback, ideas, and suggestions as needed. Represent the interests of the prosecutor and law enforcement.
- B. County sheriff's department and community corrections: Attend biweekly team meetings and court sessions. Provide advice and suggestions on community corrections sanctions and provide feedback to the court on the drug court participants' follow-up on all ordered community corrections sanctions.
- C. Probation department: Attend team meetings and biweekly sessions. Provide probation oversight for all drug court participants. Work with the drug court coordinator in supervising and monitoring the individuals in the program. Prepare presentence reports as needed. Schedule show causes for participants who have violated the program rules and are subject to dismissal.
- D. Drug court circuit judge: Chair meetings, preside in court, and coordinate team activities, evaluations, and planning.
- E. Defense counsel representative: Attend team meetings and biweekly sessions. Insure that defendants' procedural and due process rights are followed. Provide feedback, suggestions, and ideas on the operation of the court.
- F. Project coordinator: Attend meetings, arrange for additional screenings of persons screened by the prosecutor. Answer inquiries from defense attorneys on possible eligibility. Enter data into DCCMIS system. Liaison with treatment providers and drug testing contractor, district court intensive supervised probation and residential treatment facilities.
- G. Addiction recovery center, Family Services & Children's Aid and substance abuse services: Attend meetings, report on progress of participants, and offer insights and suggestions on the treatment plans of individuals in the program.
- H. Community Mental Health: Attend meetings, report on progress of participants, and offer insights and suggestions on those participants who have mental health issues in addition to substance abuse problems.

Signature and date of all parties.

# APPENDIX C

**Model Local Administrative Order for an Adult Drug Court:**

<http://www.courts.mi.gov/Administration/SCAO/Resources/LAOs/LA029d-Model-Adult.rtf>

**Model Local Administrative Order for DWI/Sobriety Court:**

<http://www.courts.mi.gov/Administration/SCAO/Resources/LAOs/LA029a-Model-DWI.rtf>

**Model Local Administrative Order for Family Dependency Court:**

<http://www.courts.mi.gov/Administration/SCAO/Resources/LAOs/LA029cModel-Family.rtf>

**Model Local Administrative Order for Juvenile Drug Court:**

<http://www.courts.mi.gov/Administration/SCAO/Resources/LAOs/LA029b-Model-Juvenile.rtf>

# APPENDIX D

The following is a summary of information available in *Quality Improvement for Drug Courts: Evidence-Based Practices Monograph Series 9* (2008). This is a NDCI publication that can be viewed at <http://www.ndci.org/sites/default/files/ndci/Mono9.QualityImprovement.pdf>

**Screening for Drug Use Severity** - Instruments that accurately identify offenders who are drug-dependent.

- Alcohol Dependence Scale/Addiction Severity Index Drug Use section (McLellan et al., 1992; Ross, Gavin, & Sinner, 1990; Skinner & Horn, 1984)
- Simple Screening Instrument (Center for Substance Abuse Treatment, 1994)
- TCU Drug Screen II (Knight, Simpson, & Hiller, 2002).

**Co-occurring Disorders** - The following combination of evidence-based instruments is recommended for screening of co-occurring disorders in drug courts (Peters, Bartoi, & Sherman, 2008):

- A. Either the Global Appraisal of Individual Needs (GAIN-SS) **or** the Mental Health Screening Form-III (MHSF-III) to address mental health symptoms,  
**and**
- B. Either the Simple Screening Instrument (SSI), the Texas Christian University Drug Screen-II (TCUDS-II), **or** a combination of the Alcohol Dependence Scale (ADS) **and** the Addiction Severity Index (ASI) – Drug Use section to address substance abuse symptoms.

## **Motivation for Treatment**

- The Treatment Needs/Motivation scales found within the TCU Criminal Justice Client Evaluation of Self and Treatment (CJ CEST) is one example of a freely available, evidence-based tool that can be used effectively to assess an offender's readiness for the drug court (Garner, Knight, Flynn, Morey & Simpson, in press).
- Other free screening instruments for motivation worth considering include the Circumstances, Motivation, and Readiness (CMR) scales (De Leon, 1993) and the URICA (Prochaska & DiClemente, 1983).

## **Criminal Thinking Patterns**

The TCU Criminal Thinking Scales (Knight, Garner, Simpson, Morey, & Flynn, 2006) is a free instrument that examines entitlement, justification, power orientation, cold heartedness, criminal rationalization, and personal irresponsibility.

## **RESOURCES**

- Alcohol Dependence Scale: [www.camh.net](http://www.camh.net)
- Addiction Severity Index Drug Use section: [www.tresearch.org](http://www.tresearch.org)
- Circumstances, Motivation, and Readiness (CMR) scales: [www.ndri.org](http://www.ndri.org)
- CSAT TIPs 7, 11, and 44: [www.treatment.org/Externals/tips.html](http://www.treatment.org/Externals/tips.html)
- *Guide for Drug Courts on Screening and Assessment*: [www.ncjrs.gov/pdffiles1/bja/171143.pdf](http://www.ncjrs.gov/pdffiles1/bja/171143.pdf)

- Texas Christian University, Institute of Behavioral Research: [www.ibr.tcu.edu](http://www.ibr.tcu.edu)
- Simple Screening Instrument: [ncadi.samhsa.gov](http://ncadi.samhsa.gov)
- URICA: [www.uri.edu/research/cprc/](http://www.uri.edu/research/cprc/)

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# APPENDIX E

## Assessment Instruments to Consider

ADAD – Adolescent Drug Abuse Diagnosis

ASI – Addiction Severity Index

ASI-Lite – Short version of Addiction Severity Index

BSAP – Behavioral Severity Assessment Program

GAINS – Global Appraisal of Individual Needs

JASAE – Juvenile Automated Substance Abuse Evaluation

NEEDS – Comprehensive Adult Assessment Tool

SALCE – Substance Abuse/Life Circumstances Evaluation

SASSI – Substance Abuse Subtle Screening Inventory

The following combination of evidence-based instruments is recommended for *assessment* of co-occurring disorders in drug courts (Peters, Bartoi, & Sherman, 2008)<sup>8</sup>:

A. Either the Psychiatric Research Interview for Substance and Mental Disorders (PRISM),

**or**

B. A combination of either the Minnesota Multiphasic Personality Inventory-2 (MMPI-2), the Millon Clinical Multiaxial Inventory-III (MCMI-III), or the Personality Assessment Inventory (PAI) to examine mental disorders,

**and**

The Addiction Severity Index (ASI) to examine substance use disorders.

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<sup>8</sup> Peters, R. H., Bartoi, M. G., & Sherman, P. B. (2008). *Screening and assessment of co-occurring disorders in the justice system*. Delmar NY: The National GAINS Center.



**Sample Waiver Form for a Drug Court \***

CONSENT FOR DISCLOSURE OF CONFIDENTIAL SUBSTANCE ABUSE INFORMATION: DRUG COURT REFERRAL

I, \_\_\_\_\_, hereby consent to communication between  
(name of defendant) \_\_\_\_\_, and Judge \_\_\_\_\_, (name of treatment  
program) (name of presiding judge, drug court  
judge) \_\_\_\_\_  
(prosecuting attorney, assistant prosecuting attorney, public defender, assistant public defender, or  
defense counsel) the probation department of \_\_\_\_\_ and \_\_\_\_\_.  
(name of jurisdiction) (name(s) of other referring agency)

The purpose of, and need for, this disclosure is to inform the court and all other named parties of my  
eligibility and/or acceptability for substance abuse treatment services and my treatment attendance,  
prognosis, compliance, and progress in accordance with the drug court program's monitoring criteria.

Disclosure of this confidential information may be made only as necessary for, and pertinent to, hearings  
and/or reports concerning \_\_\_\_\_.  
(list charges, docket number and indictment number)

I understand that this consent will remain in effect and cannot be revoked by me until there has been a  
formal and effective termination of my involvement with the drug court program for the above-  
referenced case, such as the discontinuation of all court \_\_\_\_\_ supervision upon my  
successful completion  
(and/or, where relevant, probation) of the drug court requirements OR upon sentencing for violating the  
terms of my drug court involvement \_\_\_\_\_.  
(and/or, where relevant, probation)

I understand that any disclosure made is bound by Part 2 of Title 42 of the Code of Federal Regulations,  
which governs the confidentiality of substance abuse patient records and that recipients of this  
information may redisclose it only in connection with their official duties.

\_\_\_\_\_  
Date Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of defense counsel

\_\_\_\_\_  
Signature of interpreter (where applicable)

\_\_\_\_\_  
Signature of parent or guardian (where applicable)

\*Adapted from a sample provided by S. Rebecca Holland, Legal Director, The Osborne Association, Brooklyn, NY